UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

IN RE:	CHAPTER 11
ALLIED NEVADA	CASE No. 15-10503(MFW)
GOLD CORP,et al.,[1]	Jointly Administered
DEBTORS	

OBJECTION-DEBTORS AMENDED PLAN OF REORGANIZATION AND MOTION FOR STANDING TO PROSECUTE

COMES NOW, party of interest, BRIAN TUTTLE *pro se*, submits this Objection to Debtors' proposed plan of reorganization and moves This Honorable Court for standing to prosecute inequitable conduct for equitable subordination or disallowance:

[1] The Debtors("Debtors") in these cases, along with the last 4 digits of each Debtor's federal tax identification number, are: Allied Nevada Gold Corp.(7115); Allied Nevada Gold Corp Holdings LLC (7115); Allied VGH Inc. (3601); Allied VNC Inc. (3291): ANG Central LLC (7115); ANG Cortez LLC (7115); ANG Eureka LLC(7115); ANG North LLC (7115); ANG Northeast LLC (7115); ANG Pony LLC (7115); Hasbrouck Production Company LLC (3601); Hycroft Resources and Development, Inc. (1989); Victory Exploration Inc.(8144); and Victory Gold Inc.(8139). The corporate headquarters for each of the following are located at, and the mailing address for each of the following of each of the above debtors, except Hycroft Resources & Development, Inc., is 9790 Gateway Drive, Suite 200, Reno, Nevada 89521. The mailing address for Hycroft Resources & Development, Inc. is P.O. Box 3030, Winnemucca, NV 89446.

PRELIMINARY STATEMENT

1. Prior to the confirmation of the Global Settlement Agreement the party of interest asks This Court to resist the temptation of "going through the motions" in lieu of the proposed consensual plan. As many things in these proceedings things are not always what they seem and every so often light must be shed from the outside to bring to bring clarity to those on the inside, so in respect to justice the party of interest requests patience in yet another attempt to "level the playing field".

2. On face value it appears the Amended Plan was negotiated with all Holders in mine since the Debtors, along with the respective Committees, came to terms in a consensual agreement. The problem herein lays with the fact the Official Equity Committee members are not Class 8 holders they are Class 6 Holders. The solicitation materials themselves do not going into detail about the releases or what happens when a shareholder decides to "opt out" and if the Equity Committee themselves will be opting out.

3. The Equity Committee's contention that "The members of the Equity Committee and the Equity Committee's professionals have worked diligently to maximize the recovery for all equity security holders in these Chapter 11 cases" (see Doc 1010 page 20 of 147) is without merit. Omitted from the Disclosure Statement is the fact the Equity Committee and some of their family members will be voting on different ballots then their constituents, and are doing so without ever

completing an evaluation. Undisclosed to the Committee's constituents are the conflicts of interest arising from the dichotomy of Class 6 holders soliciting a plan that extinguishes the common Equity held by Class 8 holders. To sum it up, a small group of Class 6 subordinated Equity holders have negotiated a plan that extinguishes the rights of Class 8 Equity Holders in exchange for releases against, not only the Debtors' but the Equity Committee themselves and in doing so never sought standing, for their constituents to prosecute claims the Committee members themselves filed as individuals.

JURISDICTION

6. This Court has jurisdiction over this matter. Section 1129 of the Bankruptcy Code sets forth the standards for plan conformation and in those standards it explicably states that any plan approved must be one proposed in good faith and not by any means forbidden by law. To meet this standard This Honorable Court has previously opined, the plan proposed must establish that "(1) (the plan) fosters the result consistent with the Code's objectives…., (2) the plan has been proposed with honesty and good intentions and with a basis for expecting the reorganization to be effected…, and (3) there was fundamental fairness in dealing with creditors."

7. The party of interest requests "derivative standing" *(see in re Commodore Int'l Ltd.)* as inexplicably the Debtors, and the Official Committee of Equity Security Holders have unjustifiably refused to move for standing to

prosecute the colorable claims referenced in the Disclosures of both: Gregory Mashitti and John Connor(*see dockets 962,963*), even when the facts supporting said claims are abundant and the evidentiary burden low.

8. In 1977, the Fifth Circuit Court of Appeals in re Mobile Steel Co. articulated what has become the most commonly accepted standard for equitably subordinating a claim. Under the Mobile Steel test, a claim can be subordinated if the claimant engaged in some type of inequitable conduct that either resulted in injury to stakeholders or conferred an unfair advantage on any claimant.

9. The party of interest requests standing to prosecute claims for equitable subordination or disallowance of the creditor's claims as well as the authority to prosecute allegations of fraud, dishonesty, incompetence, misconduct, mismanagement, or irregularity in the management of the affairs of the debtor of or by current or former management of the debtor. In considering such a request This Honorable Court must only determine whether or not the party of interest has stated a colorable claim.

10. The appropriate standard for establishing a colorable claim is a low threshold mirroring the standard applicable to a motion to dismiss a complaint for failure to state a claim is "merely a preliminary ruling …in contrast to a ruling on the merits based upon a fully developed factual record after a full trial and discovery" (*see Centaur LLC, No 10-10799, 2010 WL 462-4910).* According to the Disclosures of Gregory Mashitti and John Connor, the Equity Committee

themselves recognized several colorable claims but failed to request standing to prosecute. Moreover, the party of interest has stated several colorable claims warranting equitable misconduct throughout these proceedings, specifically in Motion to Appoint an Examiner, the supporting brief and Objection to Debtors' Plan of Reorganization.

MOTION FOR STANDING FOR CLASS 8 EQUITY SECURITY HOLDERS TO PROSECUTE CLAIMS FOR EQUITABLE SUBORDINATION OR DISALLOWANCE

11. The party of interest re-alleges the facts and arguments raised in MOTION TO APPOINT AN EXAMINER WITH ACCESS TO AND AUTHORITY TO DISCLOSE PRIVILEGED MATERIALS, all briefs in support thereof and OBJECTION-DEBTORS AMENDED PLAN OF REORGANIZATION. The party of interest stands by the colorable claims alleged, that in an effort to solicit capital for the Hycroft Mill expansion, an unholy allegiance was formed to transfer wealth by extinguishing current equity in an exchange for management incentive plans, sweetheart deals, inside information and unsupported claims against the Estate.

12. On or around August 26th 2015, The Official Committee of Equity Security Holders, Official Committee of Unsecured Creditors, The Ad Hoc Group of Senior Unsecured Note holders and Debtors entered into a consensual agreement to bring a swift conclusion to these proceedings. Pursuant to the

agreement, The Official Committee of Equity Security Holders withdrew on all objections and agreed to not contest any matters going forward.

13. To date, there has been no Trustee or Examiner appointed to investigate any of the colorable claims alleged by the party of interest. Even though millions of professional fees have accrued, not one deposition has been noticed. Moreover, the only party of interest seeking any discovery into the internal trading decisions of any creditor or Equity holder has been Mr. Tuttle.

14. Until now, no one has sought standing for class 8 Equity Security Holders to prosecute any of the fraud that seamlessly encompasses Debtors' and their Creditors' affairs. In Declaration of Gregory J. Mascitti in Support of the Response Of the Official Committee of Equity Holders To Motion to Appoint an Examiner *(See docket 963),* counsel for the Official Committee of Equity Holders Gregory J. Mascitti admits:

> "As set forth above, the Equity Committee and its counsel have analyzed numerous potential claims. Based upon such analysis, the Equity Committee determined many potential claims, including certain claims related to alleged securities law violations and alleged insider trading, were claims that belonged to individuals. The Equity Committee and its professionals did not conduct any investigation into potential claims belonging to individuals."

15. In WAMU, this Honorable Court ruled that Creditors who trade in a public Debtor's securities when they merely have knowledge of confidential settlement negotiations may be guilty of insider trading and shareholders in Equity had standing to prosecute such claims. The colorable claims alleged by the party of interest, and supported by public records are much more egregious clear cut allegations of insider trading then what was presented in WAMU. The record of evidence reflects several potential claims against the Estate, as declared and disclosed by the Equity Committee, that have yet to be prosecuted.

16. The colorable claim alleged that the Unsecured Note Holders engaged in inequitable conduct, is further supported by, amongst other things, the Fourth Verified Statement of the Ad Hoc Group (*see docket 959*). In the verified statement Whitebox Advisors "Other Disclosable Economic Interests" included only derivative bets against Debtors' Equity Securities. White box operates as a Hedge Fund but yet all disclosed trades in Debtors' Equity were bets against the stock price.

Furthermore, at the 9/11/2015 Hearing testimony was offered that Whitebox Advisors were privy to confidential information on ongoing restructuring negotiations since December 2014 and in the Mercer declaration it is established "Between September 1st, 2014, and the date of this affidavit Whitebox placed ANV on it's RTL three times" but the Declaration admits:

"The first period Whitebox placed ANV on its RTL lasted from February 12th, 2015…"

In his Declaration in support of the Ad Hoc Group's Objection to the party of interest Motion to Appoint an Examiner, White box senior portfolio manager and future Board of Director of Debtors': Jacob Mercer, also declared he has "personal knowledge" of the party of interest's allegations and "if called to testify I could do so competently". (see docket 964) Unfortunately, as This Court knows Jacob Mercer was absent from the Hearing and unavailable for any cross examination to clear up the inconstancies on the record or defend against the party of interests allegations.

17. White box Advisors is not the only Ad Hoc Group note holder whose representatives submitted declarations in support of the Ad Hoc Group's objection to the Examiner Motion but was then unavailable for cross examination. High Bridge Capital's Jason Hempel was also awol from the September 11th Hearing, leaving the party of interest's allegation that High Bridge Capital held a significant portion of the available put options in Debtors' Equity Securities un-refuted.

18. Furthermore, at the 9/11/2015 Hearing on the party of interests Motion to Appoint an Examiner, Stephen Kearns managing director for Guardian Capital, testified Guardian Capital held Debtors' notes for the counterparty to the Currency Swap that bankrupted Debtors' and financial advisor Scotiabank.

19. The party of interest alleges Whitebox Advisors, High Bridge Capital, Scotiabank and others creditors have committed inequitable conduct by trading in Debtors' securities on inside information and using the profits to purchase controlling interests in several classes of Debtors' notes and securities thereby hijacking the settlement negotiations from the onset. The Hedge Funds then engaged in further inequitable conduct, by trading in the Debtors' securities while in possession of material non public information to acquire a blocking position in various classes to ensure the note holders will get paid and the shareholders extinguished.

These creditors played integral roles in negotiating purchased positions in various classes after they, along with their advisors and analysts, came into possession of confidential information. Directly in the middle was financial advisor, creditor and counterparty to the currency swap: Scotiabank. As referenced in briefs supporting the party of interests Motion to Appoint an Examiner Trevor Turnbull was able to the price of Debtors' Equity in advance of any material public disclosure of the restructuring while the company he worked for, Scotia Capital traded in Debtors' notes and securities. Further evidence of this conduct was the 8/11/2015 regulatory offer issued by Debtors' via Broadridge Solutions. Upon information and belief the regulatory offer may constitute direct violation of Court ordered confidentiality provisions as the offer was made prior to the release of material information to the public in regards to the consensual Global Settlement Agreement.

20. Accordingly, Class 8 Equity holders should have standing to prosecute the colorable claims pursuant to the doctrine of equitably disallowance and/or subordination of the Creditors as the Creditors themselves were not "temporary insiders", but financial advisors, short sellers, and counterparties, that did not just negotiate the restructuring, they conspired it.

In the interest of all but forgotten justice, This Honorable Court cannot let the planned hijacking of Debtors' estate go through until Class 8 Equity Security Holders have standing to prosecute the colorable claims made against the note holders, whom now stand to make windfall profits from placing trades with the benefit of confidential information. Not only do several of the note holders, singled out for alleged insider trading, have a competing interest in several classes of Debtors' securities and notes, if the proposed plan goes through unhitched they will also have controlling interest of the proposed Board of Directors *{see docket 1024 List of Reorganized Directors and Officers: David Kirsch-(Mudrick Capital) Jacob Mercer-(White box Advisors) and Jonathon Segal-(High Bridge}*.

21. Instead of requesting this Honorable Court for standing to prosecute the Equity Committee counsel advised its' members, and their kin folk, to file claims as creditors against Debtors's Estate, in the absence of any Court Order or Decree establishing any claim. The peculiar advisement of the Equity Committee's counsel to not seek standing in favor of submitting individual baseless claims raises further suspicion on the Equity Committee's stance on the party of interest's Motion to Appoint an Examiner. If nothing else it shows the sheer incompetence of the Equity Committee's counsel. As retained officers of several Bankruptcy Courts

the Law Office of Leclair Ryan should have known the manner in which they advised Committee members to submit claims was designated for Creditors. *(See Mashitti Declaration: "other instances, the Equity Committee and its counsel determined that a claim, although perhaps colorable, was not a claim the Equity Committee could obtain standing to prosecute given the type of potential claim and nature of the potential damages.")*

The cumulative effect was Class 6 Holders unilaterally choosing to arbitrarily deny Class 8 holders standing. The Class 6 Holders controlling the Equity Committee did so in absence of any Motion set forth to allow This Court to render a fair verdict. Throughout the proceedings, the Equity Committee has unproductively blown through close to 1.5 million dollars, but has not had one Motion or Objection heard by This Court that did not include fees. Moreover out of the huge billed hours for work done and the amount of time spent on an evaluation of Debtors' assets was less than a full work day.

22. The Equity Committee, although class 6 holders, had at minimum a chance to request This Court give them standing as the Equity Committee in WAMU successfully did. The problem herein lies in the Equity Committee not disclose their findings till after:

A) They failed to construct the Court ordered website to communicate with constituents;

B) The bar date passed;

C) The Equity members, and some of their kin, filed claims against the estate; and then

D) solicited class 8 Holders for releases against the Estate and even the Equity Committee itself;

E) The Committee failed to seek standing for the Class 8 constituents they represent.

23. Obviously, the Hedge Funds holding voting interests in several of classes were not going to prosecute themselves, so the standing to do so fell on the Equity Committee and unfortunately they failed to act. The party of interest has no opinion on the character of these individuals as they themselves are victims of this charade and were clearly outmatched by professionals who unlawfully profit from distressed assets regularly.

The makeup of the Equity Committee consists of 3 retail investors with no bankruptcy experience. The absence of any seasoned institutional investor, is not the fault of the Committee members themselves, as the Substantial Holders of Debtors' Equity apparently were not willing to participate in these proceedings in regards to the Equity held. The only logical explanation the hands off approach institutional holders have taken is they have been sitting on the Creditor's Committee.

24. With the public unaware of the Debtors' true state of affairs, the insider Hedge Funds and banks profitted from trading on the confidential information obtained as parties to the restructuring they negotiated, then used the proceeds to buy up Debtors' notes at a discounted rate. The noteholders went on a buying spree concentrating on acquiring the discounted notes and equity while placing huge derivative bets against the equity although the public did not know the confidential accounting of debtors' affairs or the current the terms or state of negotiations. Thereafter and throughout the negotiations the very Hedge Funds controlling the negotiations purchased securities of Debtors' prior to the public disclosure of the material information including the consenual agreement, as evident by the 8/11/2015 Debtors' consumated via Broadridge Financial.

25. The proposed plan seeks nonconsensual releases for all parties involved even in the event a class 8 ballot holder fails to vote on the plan that includes a zero recoup for current class 8 holders. Without standing to prosecute the colorable claims alleged class 8 holders and purported victims of Debtors' and the third parties released will never get a chance to prosecute behavior many feel are affirmative acts of egregious misconduct.

26. By now, this Court is well aware of the mistreatment Debtors' management has bestowed upon the legal owners of the Estate they drove to Bankruptcy. The Debtors' contention they, along with their advisors, have been negotiating with all stakeholder's interests in mind is outright absurd. In several pleadings, including the vehement opposition to the appointment of the Official Equity Committee, Debtors' have made the claim that they also held securities and

negotiated in respect to their holdings. Omitted from such arguments was the fact that the Board of Directors that negotiated this bankruptcy (and their bonuses), also had completely baseless and unsupported claims against the estate placing themselves also in the same Class 6 as the Equity Committee members with no motive to recover through their class 8 holdings. A review of the docket indicates the below directors and executives all have Class 6 claims against the Estate:

Terry Palmer, Carl Pescio, Robert M. Buchan, Steven A. Lang, Cameron A. Mingay, John W. Ivany, Robert G. Wardell, Randy E. Buffington, Stephen M. Jones, Tracey Thom, Murray A. Sinclair.

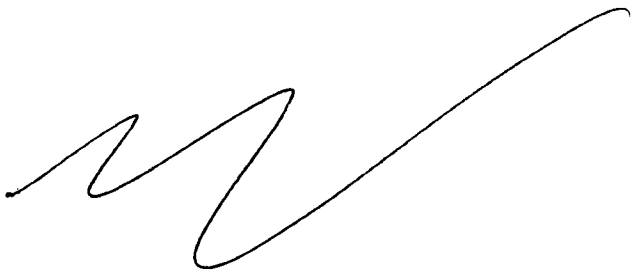
27. The party of interest objects to the plan as proposed and respectfully requests standing to prosecute the appropriate claims of fraud, dishonesty, incompetence, misconduct, mismanagement, or irregularity in the management of the affairs of the Debtor of or by current, former, or future management of the Debtor. Standing to prosecute should include any fraud as a result of the trading of Debtors' assets, including securities and notes, by current, future or former, management, directors and officers of Debtors' businesses and any person or entity that traded in Debtors' securities, notes, options or any other asset upon inside information or in any transaction that is proven to be not at "arms length".

CONCLUSION

Much like the Spanish Conquistadors and Egyptian Tomb Robbers stealing the silver off the eyes of the deceased, the parties associated in the takedown of shareholders assets had complete sociopathic disregard for their victims. The only difference between this instance and Gold Rushes of the past is the suspects had the heart to look their victims in the face instead of hiding behind high frequency trading computers making death threats from proxy servers. For whatever reason, since the dawn of society as we know it, unscrupulous characters always come out in bunches when precious metals are involved and this case is no different. We can now add the likes of High Bridge Capital, Scotiabank and Whitebox Advisors to the infamous list of shady characters that throughout history that have pillaged their fellow citizens for that illusive metal.

WHEREFORE, the party of interest respectfully requests This Honorable Court sustain the above objection and enter an order allowing Class 8 Equity Holders standing to prosecute inequitable conduct for equitable subordination or disallowance.

Respectfully submitted,



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to the following this the 23 day of Sept, 2015:

fatell@blankrome.com idizengoff@akingump.com pdublin@akingump.com

debaecke@blankrome.com afreeman@akingump.com mfagen@akingump.com

tarr@blankrome.com kthomas@mcdonaldcarano.com Tiiara.Patton@usdoj.gov

jgoldstein@stroock.com mkeats@stroock.com gsasson@stroo.com

kpasquale@stroock.com

Brian Tuttle, pro se

3424 Belmont Blvd

Sarasota, Fl 34232

(941) 328 9015

K6v9581k3@gmail.com