

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

**ADDITIONAL ITEMS ON APPEAL TRANSMITTAL SHEET**

**Case Number:** 15-10503



If AP, related BK case number:

**District Court Case Number:** CA 15-949

Item(s) Transmitted:

Appellant Designations of Items	<b>Docket #:</b> 1232	<b>Date Entered:</b> 11/3/15
	<b>Docket #:</b>	<b>Date Entered:</b>
	<b>Docket #:</b>	<b>Date Entered:</b>

**Notes:**

*I hereby certify that all designated items are available electronically through CM/ECF.*

**Date:** 11/4/15

**by:** Nancy L'Heureux  
**Deputy Clerk**

Bankruptcy Court Appeal (BAP) Number: 15-60

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

FILED  
2015 NOV -3 AM 11:00  
CLERK  
US BANKRUPTCY COURT  
DISTRICT OF DELAWARE

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IN RE:	CHAPTER 11
ALLIED NEVADA	CASE No. 15-10503(MFW)
GOLD CORP,et al., <sup>1</sup>	Jointly Administered
DEBTORS	Re:

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**APPELLANT'S DESIGNATION OF RECORD AND STATEMENT OF  
ISSUES TO BE PRESENTED ON APPEAL**

Party of interest Brian Tuttle<sup>2</sup> pro se, pursuant to Federal Rules of Bankruptcy Procedure 8006, hereby submits this statement of issues to be presented on appeal and the designation of items to be included in the record on appeal.

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<sup>1</sup> 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.

<sup>2</sup> The party of interest represents himself in these matters pro se. Pro se litigants are not held to the same standard as practicing professional attorneys.

I. **STATEMENT OF ISSUES PRESENTED ON APPEAL**

Appellant presents the following issues on appeal:

1. Whether the Bankruptcy Court committed an error of law or abuse of discretion in the Findings of Fact, Conclusions of Law, And Order Confirming Debtors' Amended Joint Chapter 11 Plan of Reorganization [Docket 1136] including without limitation:

a. Whether the Bankruptcy Court committed an error of law or abuse of discretion in departing from the essential requirements of U.S.C. 1129 (a)(5)(A)(i) by confirming a plan that did properly disclose the identity and affiliations of any individuals proposed to serve, after confirmation of the plan, as director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan with the debtor or successor to the debtor under the plan.

b. Whether the Bankruptcy Court committed an error of law or abuse of discretion in departing from the essential requirements of U.S.C. 1129 (a)(5)(A)(ii) by confirming a plan that included directors and officers whose service is not consistent with the needs of Equity Security Holders and/or public interest.

c. Whether the Bankruptcy Court committed an error of law or abuse of discretion in departing from the essential requirements of U.S.C. 1129 (a)(5)(B) by confirming a plan that did not disclose the nature of any compensation for any insider that will be employed or retained by the reorganized debtor.

d. Whether the Bankruptcy Court committed an error of law or abuse of discretion by allowing a confirmation Hearing to be held prior to Debtors filing an adequate Disclosure Statement due to, amongst other things:

i. Whether the Bankruptcy Court committed an error of law or abuse of discretion by Overruling of Brian Tuttle's 8/27/2015 Objection to the Amended Disclosure Statement filed 8/26/2015 [Docket 921] (*see paragraph 4 of this statement*).

ii. Whether the Bankruptcy Court committed an error of law or abuse of discretion by Overruling Ad Hoc Committee's Objection to Debtors' Notice of Hearing [969] (*see paragraph 3 of this statement*).

e. Whether the Bankruptcy Court committed an error of law or abuse of discretion in departing from the essential requirements of U.S.C. 1129 (a) (3) including without limitation:

i. Finding Debtors' Amended Joint Chapter 11 Plan of Reorganization was proposed in "good faith".

ii. Overlooking write downs and impairments not in accordance with standard accounting principles.

iii. Overlooking false statements and omissions.

f. Whether the Bankruptcy Court committed an error of law or abuse of discretion in departing from the essential requirements of Section 1129 (A) (11) in finding Debtors' Amended Joint Chapter 11 Plan of Reorganization was feasible and the Amended Plan was not likely to be followed by the Reorganized Debtors liquidating or requiring further financial reorganization.

g. Whether the Bankruptcy Court committed an error of law or abuse of discretion in finding Debtors' Amended Joint Chapter 11 Plan of Reorganization satisfied the requirements of Section 1129 (b)(2) of the Bankruptcy Code and was fair and equitable to Equity Security Holders.

h. Whether the party of interest was prejudiced by the Bankruptcy Court committing an error of law or abuse of discretion in denying the party of interest's Oral Motion to Stay the Confirmation Hearing.

i. Whether the party of interest was prejudiced by the Bankruptcy Court committing an error of law or abuse of discretion by not Hearing the party of interest's Motion for Standing to Prosecute prior to taking the Debtors' Amended Joint Chapter 11 Plan of Reorganization under advisement.

j. Whether the party of interest was prejudiced by the Bankruptcy Court committing an error of law or abuse of discretion by not hearing the party of interest's 2<sup>nd</sup> Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials prior to taking the Debtors' Amended Joint Chapter 11 Plan of Reorganization under advisement.

k. Whether the Bankruptcy Court committed an error of law or abuse of discretion in confirming Debtors' plan of reorganization prior to allowing the party of interest an opportunity to obtain discovery.

l. Whether the Bankruptcy Court committed an error of law or abuse of discretion in confirming the plan without a proper examination (*see paragraph 2 of this statement*).

m. Whether the Bankruptcy Court committed an error of law or abuse of discretion in overlooking the repayment periods and/or interest rates of the restructuring loans, there relation to the feasibility of the plan and the respective requirements of the Bankruptcy Code.

n. Whether the Bankruptcy Court committed an error of law or abuse of discretion by confirming a plan that provided releases for the Debtors.

o. Whether the Bankruptcy Court committed an error of law or abuse of discretion confirming a plan that provided third party releases.

p. Whether the Bankruptcy Court committed an error of law or abuse of discretion confirming a plan prior to giving parties an opportunity to review what was proposed.

q. Whether the Bankruptcy Court committed an error of law or abuse of discretion confirming a plan that still needed significant modifications and/or supplements.

r. Whether the Bankruptcy Court committed an error of law or abuse of discretion confirming a plan prior to giving parties of interest an opportunity to review supplements and/or modifications to the plan, evaluations or Disclosure Statements.

t. Whether the Bankruptcy Court committed an error of law or abuse of discretion in the application of Bankruptcy Rule 3029.

2. Whether the Bankruptcy Court committed an error of law or abuse of discretion in denying the party of interest's Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials [Docket 819] and 2<sup>nd</sup> Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials including without limitation [docket 1110]:

a. Whether the Bankruptcy Court committed an error of law or abuse of discretion in finding an Examiner was not appropriate.

b. Whether the Bankruptcy Court committed an error of law or abuse of discretion in finding an investigation into the party of interest's allegations had already been undertaken.

c. Whether the Bankruptcy Court committed an error of law or abuse of discretion in sustaining Debtors' Objection to the admission of certain evidence, including but not limited to, those exhibited in briefs in support of the Examiner Motion.

d. Whether the Bankruptcy Court committed an error of law or abuse of discretion in not considering evidence including, but not limited to, SEC Filing and exhibits from Debtors' website, published on the world wide web.

e. Whether the party of interest was prejudiced by the Bankruptcy Court committing an error of law or abuse of discretion in denying the party of interest's Oral Motion to Stay the Confirmation Hearing.

f. Whether the party of interest was prejudiced by the Bankruptcy Court committing an error of law of law or abuse of discretion by cancelling the October 27<sup>th</sup> Hearing on the party of interest's 2<sup>nd</sup> Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials [Docket 1110].

g. Whether the Bankruptcy Court committed an error of law or abuse of discretion by overlooking alleged Sarbanes Oxley violations.

h. Whether the Bankruptcy Court committed an error of law or abuse of discretion by overlooking impairments not in compliance with the applicable rules of law.

h. Whether the Bankruptcy Court committed an error of law or abuse of discretion by overlooking impairments not in compliance with the applicable rules of law.

i. Whether the Bankruptcy Court committed an error of law or abuse of discretion by overlooking colorable claims that warranted an examination.

3. Whether the Bankruptcy Court committed an error of law or abuse of discretion by Overruling the Ad Hoc Committee's Objection to Debtors' Notice of Hearing [969] including without limitation:

a. Whether the Bankruptcy Court committed an error of law or abuse of discretion in its' interpretation of Local Rule 9006-1 (c ) (i) by allowing Debtors' to Notice the Hearing on Debtors' "Motion for an Order (I) Approving Proposed Disclosure Statement and the form and Manner of the Notice of the Disclosure Statement Hearing, (II) Establishing Solicitation and Voting Procedures, (III) Scheduling a Confirmation Hearing and (IV) Establishing Notice and Objection Procedures for Confirmation of Debtors Plan of Reorganization" to be heard prior to the tolling of the required 18 day Notice provision.

b. Whether the Bankruptcy Court committed an error of law or abuse of discretion in its' interpretation of Federal Rules of Bankruptcy Procedure by allowing Debtors' to Notice the Hearing on Debtors' "Motion for an Order (I) Approving Proposed Disclosure Statement and the form and Manner of the Notice of the Disclosure Statement Hearing, (II) Establishing Solicitation and Voting Procedures, (III) Scheduling a Confirmation Hearing and (IV) Establishing Notice and Objection Procedures for Confirmation of Debtors Plan of Reorganization" to be heard prior to the tolling of the required 28 day Notice provision.

c. Whether the Bankruptcy Court committed an error of law or abuse of discretion by allowing Debtors' "Motion for an Order (I) Approving Proposed Disclosure Statement and the form and Manner of the Notice of the Disclosure Statement Hearing, (II) Establishing Solicitation and Voting Procedures, (III) Scheduling a Confirmation Hearing and (IV) Establishing Notice and Objection



Procedures for Confirmation of Debtors Plan of Reorganization” to be heard without the Debtors’ ever properly exhibiting the Amended Disclosure statement.

d. Whether the Bankruptcy Court committed an error of law or abuse of discretion by allowing Debtors’ “Motion for an Order (I) Approving Proposed Disclosure Statement and the form and Manner of the Notice of the Disclosure Statement Hearing, (II) Establishing Solicitation and Voting Procedures, (III) Scheduling a Confirmation Hearing and (IV) Establishing Notice and Objection Procedures for Confirmation of Debtors Plan of Reorganization” to be heard without the Debtors’ ever motioning the Court prior to the Notice.

4. Whether the Bankruptcy Court committed an error of law or abuse of discretion by Overruling Brian Tuttle’s 8/27/2015 Objection to the Amended Disclosure Statement which was filed 8/26/2015 [Docket 921] including without limitation:

a. Whether the Bankruptcy Court committed an error of law or abuse of discretion in the interpretation of Federal Rules of Bankruptcy Procedure Part III by Overruling Brian Tuttle’s 8/27/2015 Objection to the Amended Disclosure Statement prior to affording the parties of interest an opportunity to review the Amended Disclosure Statement.

5. Whether the Bankruptcy Court committed an error of law or abuse of discretion by Overruling Motion to Stop Sale of Debtors’ Exploration Properties and Related Assets [Docket 423] including without limitation:

- a. Whether the Bankruptcy Court committed an error of law or abuse of discretion by overlooking the facts presented that the transaction was not at “arm’s length”.
- b. Whether the Bankruptcy Court committed an error of law or abuse of discretion by overlooking the facts presented that the agreement to sell the properties was not negotiated in “good faith”.
- c. Whether the Bankruptcy Court committed an error of law or abuse of discretion in determining the proposed transaction was fair and equitable to Equity Security Holders.
- d. Whether the Bankruptcy Court committed an error of law or abuse of discretion in allowing Debtors to sell assets to a Creditor.
- e. Whether the Bankruptcy Court committed an error of law or abuse of discretion by never entering an Order in regards to the party of interest’s Motion to Reconsider the Overruling of Objection to the sale of Debtors’ Exploration Properties and Related Assets [Docket 773 filed by the Clerk on 7/28/2015, originally served on Debtors and clerk on 6/25/2015].

## **II. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

Appellant designates the following items for inclusion in the record on appeal. Such designation of pleadings and matters of record includes all exhibits attached or referred to in the pleadings or matters of record.

Docket 1     “*Chapter 11 Voluntary Petition*” filed 3/10/2015.

Docket 15    “*Declaration in Support- Barak Klein*” filed 3/10/2015.

Docket 16 "*Declaration in Support-Stephen Jones*" filed 3/10/2015.

Docket 18 "*Consolidated list of Creditors*" filed 3/10/2015.

Docket 133 "*Motion for Sale of Property..*" filed 3/31/2015.

Docket 423 "*Motion to Stop Sale of Debtors' Exploration Properties and Related Assets*" filed 5/20/2015.

Docket 249 "*Order Authorizing Selling Debtors' Entry into the Stalking Horse Purchase Agreement...*" filed 4/24/2015.

Docket 606 "*Order Approving the Sale of the Selling Debtors' Assets...*" filed 6/18/2015.

Docket 773 "*Motion to Reconsider the Overruling of Objection to the sale of Debtors' Exploration Properties and Related Assets*" filed by the Clerk on 7/28/2015, originally served on Debtors and clerk on 6/25/2015.

Docket 819 "*Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials*" filed 8/11/2015.

Docket 921 "*Notice of Hearing// Notice of Filing of Amended Proposed Order Approving Disclosure Statement*" filed 8/26/2015.

Docket 931 "*Amended Chapter 11 Plan// Debtors' Amended Joint Chapter 11 Plan of Reorganization*" filed 8/27/2015.

Docket 933 "*Amended Disclosure Statement// Amended Disclosure Statement for the Debtors' Amended Joint Chapter 11 Plan of Reorganization*" filed 8/27/2015.

Docket 957 *“Debtors’ Objection to Brian Tuttle’s Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials”* filed 9/4/2015.

Docket 958 *“Objection of the Unsecured Creditors to Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials”* filed 9/4/2015.

Docket 959 *“Verified Statement of Ad Hoc Group of DIP Parties”* filed 9/4/2015.

Docket 960 *“Objection of the Ad Hoc Group of Senior Lenders to Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials”* filed 9/4/2015.

Docket 961 *“Response of the Official Committee of Equity Security Holders to Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials”* filed 9/4/2015.

Docket 962 *“Declaration of John Connor in Support of the Response of the Official Committee of Equity Security Holders to Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials”* filed 9/4/2015.

Docket 963 *“Declaration of Greg Mashiti in Support of the Response of the Official Committee of Equity Security Holders to Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials”* filed 9/4/2015.

Docket 964 *“Declarations in Support of Objection of the Ad Hoc Group of Senior Lenders to Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials”* filed 9/4/2015.

Docket 969 "*Objection of the Ad Hoc Committee to Debtors' Notice of Hearing*" filed by the Clerk on 9/8/2015 originally served and mailed 8/27/2015.

Docket 970 "*Brief in Support of Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials*" filed 9/8/2015 .

Docket 972 "*Brief in Support of Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials*" 9/8/2015.

Docket 975 "*Brief in Support of Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials*" filed 9/8/2015.

Docket 978 "*Brief in Support of Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials*" filed 9/8/2015.

Docket 981 "*Brief in Support of Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials*" 9/8/2015.

Docket 995 "*Order Denying Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials*" filed 9/15/2015{exhibited in Notice of Appeal as exhibit 1 see docket 1176}).

Docket 1049 "*Objection to Debtors' Amended Plan of Reorganization and Motion for Standing to Prosecute*" filed 9/24/2015.

Docket 1050 "*Motion for Leave of Court to Take Depositions upon Written Questions*" filed 9/24/2015.

Docket 1051 "*Objection to Debtors' Amended Plan of Reorganization*" filed 9/24/2015.

Docket 1052 "*Notice of Filing Hycroft Project NI 43-101 Technical Report Mil Expansion Feasibility Study Winnemucca, Nevada USA*" filed 9/24/2015.

Docket 1063 “*Objection to Debtors’ Amended Plan of Reorganization*” filed 9/28/2015.

Docket 1091 “*Objection to Confirmation of Plan by the United States*” filed 10/1/2015.

Docket 1097 “*Notice of Agenda of Matters Scheduled for Hearing*” filed 10/2/2015.

Docket 1100 “*Memorandum of Law in Support of Confirmation and Omnibus Reply to Objections to Confirmation of the Debtors’ Joint Chapter 11 Plan of reorganization*” filed 10/2/2015.

Docket 1107 “*Supplemental Declaration of James Daloia*” filed 10/3/2015.

Docket 1110 “*2<sup>nd</sup> Motion to Appoint an Examiner With Access to and Authority to Disclose Privileged Materials*” filed 10/5/2015.

Docket 1111 “*Declaration of Brian Tuttle*” filed 10/5/2015

Docket 1114 “*Brief in Support of Objection to Debtors’ Amended Plan of Reorganization*” filed 10/5/2015.

Docket 1136 “*Findings of Fact, Conclusions of Law, and Order Confirming Debtors’ Amended Joint Chapter 11 Plan of Reorganization*” filed 10/8/2015{ exhibited in Notice of Appeal as exhibit 2 see docket 1176}).

Docket 1163 “*Notice of Appeal*” filed 10/20/2015.

Docket 1166 “*Debtors’ Omnibus Objection...*” filed 10/20/2015 .

Docket 1172 “*Motion to Stay Pending Appeal*” filed 10/21/2015.

Docket 1173 *“Motion to Reconsider Findings of Fact, Conclusions of Law, and Order Confirming Debtors’ Amended Joint Chapter 11 Plan of Reorganization”* filed 10/21/2015.

Docket 1174 *“Motion to Reconsider Oral Motion to Stay the Proceedings”* filed 10/21/2015.

Docket 1176 *“Notice of Appeal”* filed 10/21/2015.

Docket 1205 *“Motion to Allow Jury Trial or in the Alternative Motion for Rehearing”* filed by Jordan Darga.

Docket 1206 *“Motion to Allow Jury Trial or in the Alternative Motion for Rehearing”* filed by Stoyan Tachev.

Transcript of Hearing held before the Bankruptcy Court June 18<sup>th</sup>, requested from the Debtors as it was exhibited at the 10/6/2015 Confirmation Hearing. If the Debtors do not promptly produce the transcript the party of interest will order a copy from the transcriber and file with the Bankruptcy Court.

Transcript of Hearing held before the Bankruptcy Court on August 20<sup>th</sup> 2015, separately Noticed and filed this day with the Clerk of the United States Bankruptcy Court for the District of Delaware.

Transcript of Hearing held before the Bankruptcy Court on August 27<sup>th</sup> 2015, separately Noticed and filed this day with the Clerk of the United States Bankruptcy Court for the District of Delaware.

Transcript of Hearing held before the Bankruptcy Court on September 11<sup>th</sup> 2015,  
separately Noticed and filed this day with the Clerk of the United States  
Bankruptcy Court for the District of Delaware.

Transcript of Hearing held before the Bankruptcy Court on October 6<sup>th</sup> 2015,  
separately Noticed and filed this day with the Clerk of the United States  
Bankruptcy Court for the District of Delaware.

RESPECTFULLY SUBMITTED this the 3<sup>o</sup> day of October, 2015



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Brian Tuttle, pro se



FILED

2015 NOV -3 AM 11:00

**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 30 day of October, 2015:

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