

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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

**FIRST INTERIM FEE APPLICATION OF
MARTINEC, WINN & VICKERS, P.C., ATTORNEYS,
TO ALLOW COMPENSATION OF \$124,183.26
FROM JULY 21, 2015, THROUGH NOVEMBER 15, 2015**

This pleading requests relief that may be adverse to your interests.

If no timely response is filed within twenty-one (21) days from the date of service, the relief requested herein may be granted without a hearing being held.

A timely filed response is necessary for a hearing to be held.


MARTINEC, WINN & VICKERS, P.C., Attorneys for the Debtor in the above referenced case, respectfully request compensation for the hereinafter described legal services and expenses, and in support thereof show the Court the following:

1. A Fee Application Summary, which includes a summary description of the services rendered, by category, reflecting the total cost of each category of services and summarizing the nature and purpose of each category of services rendered, and the results obtained, is attached hereto as Exhibit A.
2. A Compensation Support Exhibit reflecting contemporaneous time records itemizing services rendered by category, in a format which reflects a description of each service entry, the amount of time spent rendering that service, the date the service was performed, who performed that service, and the hourly rate of the person performing that service, is attached hereto in Exhibit B.
3. A Reimbursement Support Exhibit is shown on Exhibit B.

WHEREFORE, Applicant requests compensation for services in the amount of \$118,239.00 as fees and \$5,944.26 as reasonable costs, for total additional compensation requested of \$124,183.26, and for such other relief as is just.

Respectfully submitted,

MARTINEC, WINN & VICKERS, P.C.
919 Congress Avenue, Suite 200
Austin, TX 78701- 2117
(512) 476-0750/FAX (512) 476-0753
martinec@mwwmlaw.com

By: 
Joseph D. Martinec
State Bar No. 13137500
ATTORNEYS FOR DEBTOR-IN-POSSESSION

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of November 2015, a true copy of the foregoing has been served via the Court's ECF Noticing System or via e-mail to the creditors and parties in interest on the current Master Service List and sent in compliance with Local Rules 2016(b) and 9013 to the following:

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

United States Trustee (with attachments)
903 San Jacinto Blvd., Room 230
Austin, TX 78701

and a ***Fee Application Summary***, if not served via e-mail or ECF, has been sent by first class mail to those creditors and parties in interest on the attached matrix.


Joseph D. Martinec

- c. Pre-petition retainer: \$20,020.04¹. Balance in Trust Account as of 10/31/2015: \$440.72.
- d. Time period covered: July 21, 2015, through November 15, 2015.

IV. BREAKOUT OF CURRENT APPLICATION

Name/Capacity	Date Admitted to the Bar	Total Hours	Rate	Total Fee
J. Martinec/Attorney	9/73	185.40	450.00	\$83,430.00
B. White/Paralegal	N/A	399.50	100.00	\$33,950.00
L. Vickers/Attorney	12/84	1.50	350.00	\$525.00
S. Parsons/Admin	N/A	16.70	20.00	\$334.00
TOTALS		603.1		\$118,239.00

MINIMUM FEE INCREMENTS: .10

TOTAL EXPENSES: \$5,944.26

Standard fees are: \$.25 per page for photocopying; \$1.00 per page for telefaxing documents, with a \$10.00 maximum charge.

AMOUNT (fees and expenses) ALLOCATED FOR PREPARATION OF THIS FEE APPLICATION: \$1,130.00

V. PRIOR APPLICATIONS: None

VI. OTHER CO-EQUAL OR ADMINISTRATIVE CLAIMANTS IN THIS CASE:

Name	Party Represented
Unique Strategies Group, Inc., Financial Advisor	Debtor-in-Possession
Dykema Cox Smith, Attorneys	Official Committee of Unsecured Creditors

To the best of Applicant’s knowledge, allowance of this Application **will not** result in this estate not being able to pay all co-equal or superior administrative claims in this case.

VII. RESULT OBTAINED: This Chapter 11 was filed after BullionDirect, Inc. (“BDI”) had effectively ceased doing business, with no employees, its former management the target of investigations by federal agencies and multiple state attorneys-general. The transaction records of the company were incomplete and unreliable, and tax returns had not been filed since the 2011 tax year. Although the BDI database was, in some ways, sophisticated and detailed, the details of transactions, principally the data which customers reasonably believed indicated precious metals stored in the vault in Delaware, were egregiously over-stated. Some \$24,000,000 in claims were completely unsecured by vault inventory of only approximately \$700,000 in precious metals, the ownership of which was hotly disputed.

¹ On the Petition Date \$17,800.00 for fees and \$1,739.90 for expenses incurred in preparation for the filing of the petition and schedules were paid, leaving a balance of \$480.14 in the Debtor’s trust account.

Applicant assisted Dan Bensimon, the Chief Restructuring Officer, in developing more reliable records and in compliance with federal agency document requests. Having indicated to the Official Committee of Unsecured Creditors (the “Committee”) that a transfer of causes of action under Chapter 5 and against former management would be assigned to the Committee, Applicant tried (unsuccessfully) to obtain the cooperation of the Committee in providing investigatory resources to the Committee. The Committee expressly declined or ignored Applicant’s offers.

At the outset of the Chapter 11, Bensimon attempted to complete a series of transactions at the subsidiary level² that had been initiated by prior management and which appeared to provide a potential source of cash flow which would be available to pay claims of creditors or to restructure and restart the precious metals trading business that had been BDI’s principal pre-petition line of business. The contemplated transaction was delayed by technical issues beyond the control of Bensimon. As a secondary plan, Bensimon explored the potential sale or licensing of the BDI web platform. At the same time Bensimon sought sources of capital infusion that might allow for a re-launch of the web-based precious metals trading platform. Applicant provided valuable legal services to BDI in each of the efforts enumerated above.

BREAKDOWN OF FEES BY EVENTS				
	Total Hours	Avg. Rate	Total Fee	% of App.
1. General Counseling	19.80	398.74	7,895.00	6.68
2. 1st Day Motions/Cash Colt/Employ Prof	19.70	325.63	6,415.00	5.43
3. Sched/SFA/IDR/FMC	35.70	247.06	8,820.00	7.46
4. Gen Admin Matters/MOR	366.10	154.48	56,554.00	47.81
5. Asset Sales	11.00	450.00	4,950.00	4.19
6. Creditor Inquiries	42.70	439.34	18,760.00	15.87
7. Claims Analysis/Objections	16.00	117.50	1,880.00	1.59
8. Disclosure Statement/Plan	3.00	158.33	475.00	0.40
9. Fee Application	1.30	100.00	130.00	0.11
10. Nucleo Development	26.00	450.00	11,700.00	9.90
11. Research	1.80	366.67	660.00	0.56
TOTALS	543.10	217.71	118,239.00	100.00

VIII. *This court believes all fees should be reasonable and necessary to justify their approval for payment out of the funds of the estate prior to payment of allowed unsecured creditors. The rates currently found in this District which are reasonable, if all other facts substantiate them as reasonable and necessary, for experienced practitioners and relatively significant Chapter 11 cases in this District are:*

Attorneys - \$175.00 per hour maximum;
 Legal Assistants - \$50.00 per hour;

² Nucleo Development Company, LLC, a wholly-owned subsidiary of BDI.

Law Clerks - \$40.00 per hour.

THESE FEES ARE GUIDELINES ONLY AND DO NOT PRECLUDE EVIDENCE JUSTIFYING HIGHER OR LOWER RATES.

Attorney's fees on this Application may exceed \$175.00 per hour. Joseph D. Martinec was licensed in September 1973 and has worked since then in bankruptcy and other fields of practice. The attorney has worked on in excess of 175 Chapter 11 bankruptcy cases and over 60 confirmed Chapter 11 plans of reorganization.

Paralegal rates on this Application may exceed \$50.00 an hour. The paralegal's extensive involvement with clients frees the attorneys for other necessary work and reduces the overall average hourly rate. Ms. Roberta (Birdie) White, CLA, has been a paralegal since 1983.

BULLIONDIRECT, INC.
Chapter 11 No. 15-10940-tmd
Mailing Labels – Fee Applications

Governmental Agencies

Gray, Richard L.
7466 Old Post Road
Boulder, CO 80301

Amended: 11/10/2015

BullionDirect, Inc.
c/o Dan Bensimon
7028 Cielo Azul Pass
Austin, TX 78732
(Via e-mail)

Internal Revenue Service
c/o Steven B. Bass
Assistant U.S. Attorney
816 Congress Ave., Ste. 1000
Austin, TX 78701
(Via ECF)

Hopwood, Edward M.
1 Cedar Ridge Lane
Warren, NJ 07059

Henry Hobbs/Valerie Wenger
Office of the U.S. Trustee
903 San Jacinto Blvd., Room 230
Austin, TX 78701
(Via ECF)

Hal F. Morris, Asst. Attorney General
Bankruptcy Regulatory Section
Office of the Texas Attorney General
P.O. Box 12548
Austin, TX 78711-2548
hal.morris@texasattorneygeneral.gov

Krueger, Donald E.
3701 Sea Cliff St.
Santa Ana, CA 92704

**Official Unsecured Creditors
Committee**

**Top 20 Unsecured Creditors
(Via First Class Mail)**

Lubitski, Craig J.
153 Oswegatchie Road
Waterford, CT 06385

Louis S. McCann, Jr. (Chairman)
c/o James V. Hoeffner
Graves Dougherty Hearon & Moody PC
401 Congress Avenue, Ste. 2200
Austin, TX 78701
(Via ECF)
Kazu Suzuki
c/o Peter C. Ruggero (K Suzuki)
1411 West Avenue, Ste. 200
Austin, TX 78701
(Via ECF)

McCann, Louis S. Jr. (Chairman)
2108 Crown Dr.
St. Augustine, FL 32092

Miller, Patrick R.
15523 Spunky Canyon Rd.
Green Valley, CA 91390

Scott Burns, Jr.
1428 Deberry Blvd.
Florence, SC 29501
burnsbdcommittee@gmail.com
(Via e-mail)

Burns, Kenneth S. Jr. (Member)
1428 Deberry Blvd.
Florence, SC 29501

Nelson, Bryan D.
17540 S. Iroquois Trace
Tinley Park, IL 60477

**Attorney for Official Unsecured
Creditors Committee**

Chamness, Robert O.
P.O. Box 1244
Davis, CA 95617

Ortwein, Jeffrey
6227 Acorn Drive
Emmaus, PA 18049

Jesse T. Moore
Dykema Cox Smith
111 Congress Ave., Ste. 1800
Austin, TX 78701
(Via ECF)

Dietz, Dale A.
329 Harrisonville Rd.
Mullica Hill, NJ 08062

Phillips, Pamela L.
59 Line Road
Malvern, PA 19355

Dinsmore, Alton J.
4967 Aviary Dr. NW
Acworth, GA 30101

Pinard, Jean M.
600 Robinwood Dr.
Pittsburg, PA 15216

Stephenson, Blake
1065 Bingle Rd.
Houston, TX 77055

Stephenson, Cecil
1065 Bingle Rd.
Houston, TX 77055

Veytsman, Marina
23958 Calvert St.
Woodland Hills, CA 91367

Whalley, Lawrence G.
5 Carsey Lane
Houston, TX 77024

PROPOSED ORDER

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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

**ORDER APPROVING FIRST INTERIM FEE APPLICATION OF
MARTINEC, WINN & VICKERS, P.C., ATTORNEYS,
FOR COMPENSATION THROUGH NOVEMBER 15, 2015**

CAME ON to be heard the above captioned application, and the Court finds:

1. The compensation sought by the firm of Martinec, Winn & Vickers, P.C., attorneys for BullionDirect, Inc., Debtor in the above referenced case, is reasonable compensation for actual and necessary services rendered by such attorneys, based on the time, nature, extent, and value of such services, and the cost of comparable services. Applicant provided the services it was hired to perform and provided the maximum recovery for creditors of the estate.

2. The reasonable value of the services rendered by the firm of Martinec, Winn & Vickers, P.C. under the standards set forth in In re First Colonial Corporation of America, 544 F.2d 1291 (5th Cir. 1979) is \$118,239.00 as fees and \$5,944.26 as reasonable costs and the application of said attorneys meets the requirements set forth in such case.

IT IS THEREFORE ORDERED that the sum of \$118,239.00 is approved for payment as reasonable fees and the sum of \$5,944.26 is approved for payment as expenses to the firm of Martinec, Winn & Vickers, P.C., for a total fees and expenses of \$124,183.26, and the Debtor is

authorized to pay said firm such amount as an administrative priority. Said firm may immediately set off such sum against any retainer it may hold in connection with this case.

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Order prepared by:

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