

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

IN RE:	§	
	§	CASE NO. 03-15721-FRM
WARRANTY GOLD, LTD.,	§	
	§	CHAPTER 11
Debtor.	§	

**DEBTOR'S SECOND MODIFICATION TO
THIRD AMENDED PLAN OF LIQUIDATION DATED APRIL 15, 2005**

THE DEBTOR HAS REQUESTED AN EXPEDITED HEARING ON THE APPROVAL OF THE SECOND MODIFICATION.

ALTHOUGH THE COURT HAS YET TO GRANT THE EXPEDITED HEARING, THE DEBTOR IS REQUESTING THAT THE HEARING TO APPROVE THE SECOND MODIFICATION BE HELD ON MONDAY, AUGUST 29, 2005 AT 1:30 P.M. IN THE AUSTIN BANKRUPTCY COURT, 903 SAN JACINTO, 3RD FLOOR, AUSTIN, TEXAS 78701. IF THE HEARING IS SET AT ANY OTHER TIME, THE DEBTOR WILL SEND OUT ADDITIONAL NOTICE.

TO THE HONORABLE FRANK R. MONROE, U.S. BANKRUPTCY JUDGE:

To facilitate the closing of the Debtor's Plan Of Liquidation previously confirmed in this case, Warranty Gold, Ltd. (the "Debtor") files this its *Second Modification to Third Amended Plan of Liquidation Dated April 15, 2005* pursuant to Bankruptcy Code § 1127(b) and would respectfully show the Court as follows:

Prior Confirmation of Plan

At hearings held in February and April 2005, the Court considered the adequacy of the Debtor's amended disclosure statement, and approved it subject to the incorporation of certain provisions stated on the record. On April 15, 2005, Debtor accordingly filed its *Second Amended Disclosure Statement* (the "Disclosure Statement"). In conjunction with such hearings, the Court considered and approved the form and use of a notice prepared for the Debtor's customer creditors (the "Class Notice") regarding the Debtor's *Third Amended Plan of Liquidation Dated April 15,*

2005 (inclusive of the First Modification as defined below, the “Plan”), the class certification of Warranty Gold customers for certain purposes and hearing dates and deadlines associated with confirmation of the Plan. The Debtor duly transmitted and served the Disclosure Statement, Class Notice, Plan, ballots and other applicable notices. May 13, 2005 was set as the deadline for the delivery of ballots and filing/service of objections to the Plan.

On June 15, 2005, the Court considered the Plan and results of the ballots regarding the Plan, and the Court approved confirmation of the Plan on certain terms and conditions stated on the record. On July 15, 2005, Debtor accordingly filed its *First Modification to Third Amended Plan of Liquidation Dated April 15, 2005* (the “First Modification”). On July 20, 2005, the Court entered its *Order Confirming Debtor’s Third Amended Plan of Liquidation Dated April 15, 2005, As Modified (With Incorporated Findings of Fact and Conclusions of Law)* (the “Confirmation Order”). The Confirmation Order as entered on such date is a final, non-appealable Order.

Second Modification to Facilitate Closing

Subsequent to the Confirmation Order’s entry, it became apparent that certain provisions of the Plan require several immaterial modifications to facilitate closing and implementation of the Plan. Accordingly, the Plan Articles set forth in the paragraphs below are hereby modified as follows:

1. **Article 1.2 Definitions (Incorporating Exhibit A Glossary):** Various definitions are added and/or modified for clarification purposes as follows:

a. “Equity Interest” and “Equity Holder Interest” refer to the Debtor’s general and limited partners in their capacities as such as of the Petition Date, and to the rights arising from their respective partnership interests in the Debtor as of the Petition Date.

b. “Equity Interest Holders” and “Class 6 Interest Holders” refer to all of the holders of Equity Interests which or who are to have such Interests treated as provided for under Class 6 of the Plan.

c. “Rejection Claim Bar Date” means the date thirty (30) days after the Plan

Effective Date.

2. **Articles 6.1 Establishment of Trust AND 6.5.7 Execution of Documents and**

Corporate Action: All references in these Articles to “the Board of Directors of the Debtor” are deleted and replaced by the term “George Parsons or any other duly authorized representative of the Debtor and, to any extent deemed necessary by the Plan Trustee, of Debtor’s general partner”.

3. **Article 6.5.6 Resolution Amending Debtor’s Limited Partnership Agreement:**

This Plan Article relating to governance issues, to be renamed as shown above, is deleted and replaced by the following: “The Debtor’s general and limited partners shall execute a resolution whereby Debtor’s limited partnership agreement (as it may have been amended or modified from time to time) and all related documents (if any) concerning the rights and interests of the Debtor’s general and limited partners in their capacities as such (collectively, the “Limited Partnership Agreement”) shall be deemed further amended to provide, *inter alia*, that:

a. “All rights and interests of Debtor’s general and limited partners in their capacities as such (including, without limitation, all rights associated with governance of the Debtor as an officer, director, manager, managing partner, or the holder of any other position of apparent or actual control) are terminated as of the day after the Closing Date; *provided*, that such general and limited partners shall each be deemed to thereafter retain their respective Equity Interest for the sole and limited purpose of participating as Class 6 Interest Holders in potential distributions by the Trust under the Plan;

b. “The Debtor’s general and limited partners, as of the day after the Closing Date, shall therefore be prohibited from taking any actions in such capacities with regard to the Debtor’s interests or Assets, or otherwise purportedly on the Debtor’s behalf, except as the Plan Trustee (directly or through his counsel) may thereafter expressly authorize; and

c. “The Confirmation Order’s prior entry on a final, non-appealable basis has satisfied the conditions to effectiveness of the Plan as set forth in Plan sub-Articles 19(a) through 19(c), and Debtor’s general and limited partners mutually intend that the execution of the resolution be conclusively deemed for all purposes to fully satisfy the condition to Plan effectiveness set forth in Plan sub-Article 19(f).”

4. **Article 6.8 Management of Debtor Post-Closing:** The prefatory language of this

Plan Article is deleted and replaced with the following: “To the extent the Plan Trustee in his sole discretion deems it necessary or otherwise appropriate, after the Closing, the Plan Trustee (or, to any limited extent the Plan Trustee may expressly authorize, the Debtor’s general partner or limited partners) may undertake all action necessary” to accomplish the objectives specified in Plan sub-Articles 6.8(i) through 6.8 (iv).

5. **Article 19 Conditions to Effectiveness of Plan:** References in sub-Articles 19(a) and 19(b) to the Debtor’s “Board of Directors” are deleted and replaced by the term “Debtor’s general partner and limited partners”.

Conclusion

ACCORDINGLY, Warranty Gold, Ltd. respectfully requests that the Court, pursuant to Code § 1127, enter an Order deeming the above provisions to be incorporated as modifications of the confirmed Plan, and that the Court grant such other relief as it may deem just and proper.

Respectfully submitted,

BROWN McCARROLL LLP

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**ATTORNEYS FOR WARRANTY
GOLD, LTD.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on August 24,

2005, upon the parties registered on the Court's ECF email notification system and on the attached service list, by U.S. first class mail, postage prepaid.

/s/ Lynn Hamilton Butler

Lynn Hamilton Butler