

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Thomas John Styczinski, Tom “The Coin Guy”, LLC, Treasure Island Coins, Inc., and Numismatist United Legal Defense,

Plaintiffs,

v.

Grace Arnold, in her official capacity as Commissioner of the Minnesota Department of Commerce,

Defendants.

Court File No. _____

**Complaint for Declaratory and
Injunctive Relief**

(Jury Trial Demanded)

The plaintiffs state the following:

Introduction

1. The plaintiffs, Thomas John Styczinski, Tom “The Coin Guy”, LLC, Treasure Island Coins, Inc., and Numismatist United Legal Defense, bring this civil-rights lawsuit under 28 U.S.C. § 2201(a) and 42 U.S.C. § 1983 to challenge the constitutionality of Minnesota’s bullion-dealer law, Minn. Stat. ch. 80G. The law requires a person to have a state-issued license to buy or sell precious-metal coins or bars in Minnesota—even if the coins were issued by the United States Mint. In addition to challenging the law’s constitutionality, the plaintiffs also ask this Court to invalidate the law because it is preempted by federal statutory law.

2. Minnesota’s bullion-dealer law imposes an onerous state-level licensing scheme on commerce in what are not merely national, but massive, highly liquid, worldwide

commodities markets. Gold, silver, and platinum are traded on commodities exchanges the world over, yet participation in these markets through purchases or sales in Minnesota now requires a state license. This licensing requirement burdens Minnesotans' participation not only in the national market in rare coins containing gold or silver, but also in the global precious-metals markets.

3. Styczinski has a numismatic business, which he operates through his Minnesota limited liability company, Tom "The Coin Guy", LLC, of which Styczinski is the sole owner (for convenience, this complaint will refer to Styczinski and his company as "Styczinski," except where it is necessary to distinguish). Styczinski would like to be able to buy and sell collectible precious-metal coins without obtaining a license. He would also like to be able—without obtaining a license—to buy and sell bullion products that have no special numismatic value, such as precious-metal bullion coins and bars.

4. Treasure Island Coins, Inc. is a North Dakota corporation. It is in the business of buying and selling precious-metal coins and bars. In addition to having a store in Fargo, the company markets its products through its website. *Products*, Treasure Island Coins & Precious Metals, <https://treasureislandcoins.com/products/> (last visited July 4, 2020). Treasure Island Coins would like to be able—without obtaining a license—to sell precious-metal coins and bars to, and buy precious-metal coins and bars from, persons located in Minnesota.

5. The Numismatist United Legal Defense is an association of coin collectors and coin dealers who have come together to protect each other's legal rights to collect and deal in coins.

6. Minnesota's licensing requirement is unconstitutional under the dormant

Commerce Clause because the requirement's burdens on interstate and foreign commerce are so severe as to outweigh the state's interest in enforcing the requirement.

7. The licensing requirement also violates the dormant Commerce Clause by facially discriminating against those who engage in out-of-state transactions: the definition of "dealer," and hence the category of persons required to register, contains an exception for those engaged in up to twelve trade shows per year in Minnesota, but does not contain an exception for those engaged in out-of-state trade shows. Participation in a single out-of-state show can result in "dealer" status and hence subjection to the licensing requirement for Minnesota transactions.

8. The licensing requirement also violates the dormant Commerce Clause by attempting to regulate out-of-state transactions.

9. Furthermore, ch. 80G is void for unconstitutional vagueness because, for several reasons, it fails to impart fair notice of what it requires and prohibits.

10. Finally, several federal statutory provisions preempt the licensing requirement. These include provisions governing United States bullion coins—e.g., Gold Eagles and Silver Eagles—and a provision permitting the purchase of certain bullion products in individual retirement accounts (IRAs).

Jurisdiction and Venue

11. The Plaintiffs invoke this Court's jurisdiction under 28 U.S.C. § 1331 (federal-question jurisdiction), 28 U.S.C. § 2201(a) (declaratory-judgment jurisdiction), and 42 USC §§ 1983, 1988 (civil-rights statutes).

12. Venue is proper in the District of Minnesota under 28 U.S.C. § 1391(b)(1), (2)

because the defendant, Grace Arnold, in her official capacity as Commissioner of the Minnesota Department of Commerce, has an office located in Minnesota and because a substantial part of the events giving rise to this complaint's claims occurred in Minnesota.

Parties

A. Plaintiffs.

13. Thomas John Styczinski, a resident of Hennepin County, Minnesota, has a salaried job at a large financial institution, but he also has a numismatic side business. Operating through his Minnesota limited liability company, Tom "The Coin Guy", LLC, Styczinski buys collectible coins, some of which have gold or silver content, with the goal of later selling them at a profit. In addition to buying collectible coins, Styczinski also sometimes invests in precious-metal bullion that has no particular numismatic value and that is a vehicle for investing in precious metal, e.g., United States Gold and Silver Eagles. Neither Styczinski nor his company is registered as a bullion dealer under Minn. Stat. ch. 80G. Tom "The Coin Guy", LLC has its principal place of business in Eden Prairie, Hennepin County, Minnesota. Styczinski is a member of the Numismatist United Legal Defense.

14. Treasure Island Coins, Inc. is incorporated under North Dakota law. It has its principal place of business in Fargo, North Dakota, where it operates a brick-and-mortar coin store. In addition to selling precious-metal coins and bars at its store, it also sells precious-metal coins and bars, including Gold Eagles, Silver Eagles, Platinum Eagles, and Palladium Eagles, through its website. Customers can place orders for bullion products through the website, and Treasure Island Coins ships purchased products to buyers.

Treasure Island Coins sells to customers throughout the United States—except Minnesota. The company’s bullion sales volume greatly exceeds \$25,000 per year. Treasure Island Coins is not registered as a bullion dealer under Minn. Stat. ch. 80G. The company regards the costs of registration as outweighing the benefits of selling to, or buying from, persons located in Minnesota. The company is a member of the Numismatist United Legal Defense.

15. Numismatist United Legal Defense is an association of coin dealers and coin collectors. The association’s purpose is to protect Americans’ rights to buy, sell, and collect coins, including rare coins and precious-metal-containing coins. The association has members throughout the country, including dealers and collectors, and including Minnesota residents and residents of other states. Members engage in intrastate, interstate, and international commerce by purchasing and selling coins—including rare coins and precious-metal-containing coins—and other precious-metal-containing products such as rounds and bars. The association is designed to come to the aid of dealers and collectors wherever the government tries to infringe their rights.

B. Defendant.

16. Grace Arnold is the Commissioner of the Minnesota Department of Commerce. She is sued in her official capacity. As commissioner, she is responsible for administering Minn. Stat. ch. 80G’s licensing scheme. She has various civil-enforcement powers under Minn. Stat. §§ 45.027, 80G.10.

Facts

A. Explanation of ch. 80G's licensing requirement.

17. The licensing requirement that the plaintiffs are challenging is found in Minn.

Stat. § 80G.02's first subdivision:

Registration required. *It is unlawful for a dealer or dealer representative to solicit, market, buy, sell, or deliver bullion products or investments in bullion products to a consumer without being registered by the commissioner as provided for in this chapter. A dealer must submit an application to register itself and each of its dealer representatives within 45 days of reaching \$25,000 in the aggregate of bullion product transactions with consumers between July 1 and June 30 of any year, as determined by the transactions' sale or purchase prices. Once a dealer is required to register itself and its dealer representatives, the dealer must thereafter renew its registration and the registration of each of its dealer representatives in accordance with this chapter, regardless of the aggregate annual amount of transactions, unless the person ceases to be a dealer. A dealer representative may not buy, sell, solicit, or market bullion products or investments in bullion products on behalf of a dealer unless the dealer is properly registered with the commissioner under this section.*

Minn. Stat. § 80G.02, subd. 1 (emphasis added).

18. Minnesota Statutes § 80G.01, ch. 80G's definition section, defines "bullion product"—a key term of § 80G.02, subd. 1's licensing requirement—broadly so that the term includes far more than gold and silver coins:

Bullion product. "Bullion product" means any coin, round, bar, or ingot containing silver, gold, platinum, palladium, or other precious metal.

Id. § 80G.01, subd. 2.

19. The section's definition of "dealer" is also broad:

Dealer. (a) *Subject to the exceptions in paragraph (b), a "dealer" means any person who buys, sells, solicits, or markets bullion products or investments in bullion products to consumers and:*

- (1) *is incorporated, registered, domiciled, or otherwise located in this state;*
- (2) *has a dealer representative located in this state; or*

(3) *does business with a consumer at a location in this state, or delivers or ships a bullion product or makes a payment to a consumer at an address in this state, unless the transaction occurs when the consumer is at a business location outside of this state.*

(b) A dealer does not include any of the following persons:

(1) *a person who engages only in wholesale bullion product transactions with other persons who engage only in wholesale bullion product transactions or with dealers who buy or sell at retail and are properly registered under this chapter;*

(2) *a person who engages only in transactions at occasional garage or yard sales held at the seller's residence, farm auctions held at the seller's residence, or estate sales held at the decedent's residence;*

(3) a person who is properly registered pursuant to chapter 80A, or the federal Securities Exchange Act of 1934 and rules promulgated thereunder as a securities broker dealer or broker dealer agent;

(4) an auctioneer who auctions bullion products on behalf of an owner, if the auctioneer does not take title or ownership of the bullion products, or the operator of an Internet website that allows users to offer the sale of bullion products through that website, does not set the price, is not the seller of record, and does not take possession of any bullion products to be offered;

(5) *a person who engages only in transactions at no more than 12 trade shows per year in this state where the consumer is present and the transaction is made at the trade show;* or

(6) a federally or state-chartered bank, bank and trust, savings bank, savings association, or credit union or any operating subsidiary of them.

Id. § 80G.01, subd. 3 (emphasis added).

20. The definition section provides the following definition of “dealer representative,” one of the defined terms used in the definition of “dealer”:

Dealer representative. *“Dealer representative” means any natural person acting as an employee, contractor, or agent of a dealer and who has interactions with consumers for the purpose of the buying, selling, solicitation, or marketing of bullion products or investments in bullion products. This term does not mean a natural person who has interactions with consumers solely for administrative purposes.*

Id. § 80G.01, subd. 4 (emphasis added).

21. Missing from the definition section is a definition of “consumer,” “investments in bullion products,” “retail,” or “wholesale.” *See id.* § 80G.01.

22. Registering as a dealer—i.e., becoming licensed—requires submitting to the commissioner an application containing detailed background information about the

applicant. *Id.* § 80G.02, subd. 3. Registration also requires a fee, which the chapter sets at the initial amount of \$25, but which the commissioner may increase each year “based on the cost of processing registrations.” *Id.*, subd. 5. A dealer must renew their registration each year. *Id.*, subd. 2.

23. The commissioner may deny or revoke a registration for a variety of reasons. *Id.* § 80G.03, subd. 1. And “[t]he commissioner *must deny* an application for registration or renewal of a dealer, or revoke such registration, if the bullion coin dealer or its owners or officers have within the last ten years been convicted in any court of any financial crime or other crime involving fraud or theft.” *Id.* § 80G.04, subd. 1 (emphasis added).

24. The chapter also requires even a registered dealer to “maintain a current, valid surety bond issued by a surety company admitted to do business in Minnesota in an amount based on the transactions (purchases from and sales to consumers at retail) during the 12-month period prior to registration, or renewal, whichever is applicable.” *Id.* § 80G.06, subd. 1. The section that imposes the bond requirement contains a table showing the bond amount required for different ranges of transaction totals. *Id.*

25. The chapter makes “conduct[ing] business as a dealer or as a dealer representative without [being registered]” a misdemeanor. *Id.* § 80G.08.

26. The commissioner has various civil enforcement powers under the chapter. *Id.* § 80G.10. These include maintaining a civil action against any violator of ch. 80G. *Id.*, subd. 1. In such an action, the commissioner may seek several types of relief including an injunction or restraining order; a civil penalty of up to \$10,000 per violation; disgorgement of profits; and even asset forfeiture. *Id.*, subd. 2. The commissioner also has authority, without bringing a court proceeding, either to order a person to comply with ch. 80G or to cease

violating ch. 80G, *id.*, subd. 4(a)(intro.), (1), and has the authority, without bringing a court proceeding, to order the revocation of person's registration under ch. 80G for a violation of the chapter, *id.*, subd. 4(a)(intro.), (2). If a person fails to comply with the commissioner's order, then the commissioner may seek court enforcement of the order. *Id.*, subd. 4(e). If a court finds that a person has violated the commissioner's order, then the court may impose a civil penalty against the person of up to \$10,000 per violation and "grant any other relief the court determines is just and proper in the circumstances." *Id.* The commissioner may also use her investigation and enforcement powers under Minn. Stat. § 45.027 to enforce ch. 80G. *Id.* § 80G.10, subd. 4(f).

27. Chapter 80G's registration requirement is not severable from the rest of ch. 80G. The chapter's other provisions "are so essentially and inseparably connected with, and so dependent upon" the registration provision "that the court cannot presume the legislature would have enacted the remaining valid provisions without" the registration provision. *Id.* § 645.20. And the other provisions "standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent." *Id.*

B. Enforcement history of ch. 80G.

28. The commissioner has aggressively enforced ch. 80G. The commissioner routinely brings administrative enforcement actions against alleged unregistered bullion dealers and dealer representatives who have allegedly done business with buyers or sellers located in Minnesota.

29. One of the commissioner's approaches to enforcement against an unregistered person suspected of having engaged in a bullion transaction requiring registration is to use

her investigative authority under § 45.027 to send the person a letter demanding information related to suspected violations of ch. 80G. The purpose of the letter is to obtain evidence of a violation of ch. 80G so that the commissioner will be able to impose a penalty on the person.

30. If the commissioner determines that she can prove that an unregistered person engaged in a bullion transaction requiring registration, the commissioner then typically pressures the person to agree to a consent order by which the person, in exchange for avoiding further enforcement actions, agrees either to register or to refrain from engaging in bullion transactions requiring registration. The decree may also require the payment of a civil penalty, often some thousands of dollars.

31. The commissioner maintains an online list of her enforcement actions against persons who have allegedly violated ch. 80G. A person may reach the list by following these steps:

- a. Going to <https://www.cards.commerce.state.mn.us/CARDS/>;
- b. Selecting “Enforcement Actions” from the “Area of Interest” dropdown menu;
- c. Selecting “Bullion Coin Dealers” from the “Industry Type” dropdown menu; and
- d. Clicking on the green “Go” link button.

32. The list is arranged in a table with columns for, among other things, the names of the person targeted in each enforcement action, the person’s state of residence, the type of enforcement action used by the commissioner, the amount of the penalty imposed, and a summary of the commissioner’s allegations. The table also contains a column with link

buttons that can be used to load a document related to each enforcement action. For many of the actions, the document is the consent order agreed to by the person targeted in the enforcement action.

33. The table shows that many of the persons who have been targeted in enforcement actions—and many of the persons who have agreed to consent orders requiring the payment of civil penalties—are out-of-state businesses.

34. This is not surprising because many precious-metals dealers buy and sell throughout the United States, and many have probably had no notice—until they were slapped with an enforcement action—that Minnesota, alone among the states, requires a license to buy or sell bullion. Chapter 80G’s enforcement history shows that it operates as a trap for the unwary. The commissioner is using the chapter to shakedown legitimate businesses throughout the country for civil penalties merely because, as part of their nationwide bullion businesses, they bought from or sold to someone in Minnesota without having complied with Minnesota’s arcane licensing requirement.

35. Treasure Island Coins is among the businesses that the commissioner has targeted. The Minnesota Department of Commerce sent Treasure Island Coins a letter dated October 21, 2019, in which the department told Treasure Island Coins that the department “has been auditing Individual Retirement Accounts of precious metal storage facilities/depository agents to determine which companies are conducting precious metal IRA transactions with Minnesota consumers who desire to have their precious metals placed in an IRA approved depository.” A copy of the letter is attached as Exhibit 1.

36. The letter accused Treasure Island Coins of having engaged in “transactions with Minnesota consumers that required Treasure Island Coin to have been

licensed/registered and bonded, pursuant to Minn. Stat. §§ [sic] 45.027 and Chapter 80G.”

The letter implied that Treasure Island Coins had engaged in at least one bullion transaction with a Minnesota “consumer” in that person’s IRA. In the letter, the department requested, among other things, a spreadsheet listing all bullion transactions between Treasure Island Coins and “Minnesota consumers” from July 1, 2016 to the letter’s date and the amounts of the transactions.

37. Treasure Island Coins resolved the commissioner’s enforcement action by agreeing to the consent order, a copy of which is attached as Exhibit 2.

38. The consent order required Treasure Island Coins to pay a civil penalty of \$10,000 plus \$90 in “investigative costs.” The order also required Treasure Island Coins to submit its application to register as a bullion dealer by a certain date or else immediately cease engaging in transactions subject to ch. 80G.

39. Because of the burdens of complying with ch. 80G, Treasure Island Coins opted to discontinue doing business with persons located in Minnesota rather than apply for registration. Treasure Island Coins does business with persons in every state except Minnesota.

C. The plaintiffs’ interests in challenging ch. 80G.

40. Styczinski would like to do the following things without registering as a bullion dealer, but he is reluctant to do them for fear of violating ch. 80G:

- a. Buy or sell more than \$25,000 in “bullion products or investments in bullion products” in “transactions with consumers” in a year;
- b. Buy “bullion products or investments in bullion products” from, or sell

them to, “consumers” both inside and outside of Minnesota;

- c. Buy or sell “bullion products or investments in bullion products” in Minnesota at places other than garage sales, yard sales, farm sales, estate sales, or trade shows;
- d. Buy or sell “bullion products or investments in bullion products” in Minnesota at more than 12 trade shows per year;
- e. Buy or sell “bullion products or investments in bullion products” at trade shows outside of Minnesota;
- f. Buy or sell gold- or silver-containing coins, including United State coins, that have collectible value above the value of their precious-metal content;
- g. Buy or sell gold, silver, platinum, or palladium, coins, rounds, or bars—including coins produced by the United States Mint—that do not have collectible value above the value of their precious-metal content;
- h. Buy or sell copper pennies, including United States pennies, that have collectible value above the value of their copper content;
- i. Buy or sell copper or rhodium coins, rounds, or bars that do not have collectible value above the value of their metal content;
- j. Buy or sell coins, rounds, or bars of other metals;
- k. Buy shares in a precious-metal ETF as an investment or as a hedging tool, or sell shares in a precious-metal ETF; and
- l. Buy or sell “bullion products or investments in bullion products” in an IRA or other tax-protected retirement account.

41. Treasure Island Coins would like to do the following things without

registering as a bullion dealer, but it is reluctant to do them for fear of violating ch. 80G:

- a. Buy or sell, in a year, more than \$25,000 in “bullion products or investments in bullion products” in “transactions with consumers” located in Minnesota;
- b. Deliver or ship, in a year, more than \$25,000 in “bullion products or investments in bullion products” to “consumers” at Minnesota addresses in the course of completing “transactions with consumers”;
- c. Buy “bullion products or investments in bullion products” from Minnesota “consumers” and make payments for the purchases to “consumers” at Minnesota addresses;
- d. Buy “bullion products or investments in bullion products” from Minnesota “consumers” in their IRAs or other tax-protected retirement accounts; and
- e. Sell “bullion products or investments in bullion products” to Minnesota “consumers” in their IRAs or other tax-protected retirement accounts.

42. The “bullion products” that Treasure Island Coins would like to buy or sell in the course of engaging in activities listed in the preceding paragraph include

- a. Gold- or silver-containing coins, including United State coins, that have collectible value above the value of their precious-metal content; and
- b. Gold, silver, platinum, or palladium coins, rounds, or bars—including coins produced by the United States Mint—that do not have collectible value above the value of their precious-metal content.

43. Members of Numismatist United Legal Defense would like to do the

following things without registering as a bullion dealer, but they are reluctant to do them for fear of violating ch. 80G:

- a. Buy or sell, in a year, more than \$25,000 in “bullion products or investments in bullion products” in “transactions with consumers” located in Minnesota;
- b. Deliver or ship, in a year, more than \$25,000 in “bullion products or investments in bullion products” to “consumers” at Minnesota addresses in the course of completing “transactions with consumers”;
- c. Buy “bullion products or investments in bullion products” from Minnesota “consumers” and make payments for the purchases to “consumers” at Minnesota addresses;
- d. Buy or sell “bullion products or investments in bullion products” in Minnesota at places other than garage sales, yard sales, farm sales, estate sales, or trade shows;
- e. Buy or sell “bullion products or investments in bullion products” in Minnesota at more than 12 trade shows per year;
- f. Buy or sell “bullion products or investments in bullion products” at trade shows outside of Minnesota;
- g. Buy shares in a precious-metal ETF as an investment or as a hedging tool, or sell shares in a precious-metal ETF;
- h. Buy or sell “bullion products or investments in bullion products” in their IRAs or other tax-protected retirement accounts;
- i. Buy “bullion products or investments in bullion products” from

Minnesota “consumers” in their IRAs or other tax-protected retirement accounts; and

- j. Sell “bullion products or investments in bullion products” to Minnesota “consumers” in their IRAs or other tax-protected retirement accounts.

44. The “bullion products” that members of Numismatist United Legal Defense would like to buy or sell in the course of engaging in activities listed in the preceding paragraph include

- a. Gold-, silver-, or copper-containing coins, including United State coins, that have collectible value above the value of their precious-metal content;
- b. Gold, silver, platinum, palladium, rhodium, or copper coins, rounds, or bars—including coins produced by the United States Mint—that do not have collectible value above the value of their precious-metal content; and
- c. Coins, rounds, or bars of other metals.

Claims

Count 1: Dormant Commerce Clause—Excessive Burden on Interstate Commerce

45. The plaintiffs incorporate this complaint’s previous paragraphs.

46. Styczinski would like to engage in interstate commerce by buying and selling coins, including rare coins and coins that contain gold or silver.

47. Treasurer Island Coins, Inc. engages in interstate commerce by buying and selling

- a. Gold- or silver-containing coins, including United State coins, that have collectible value above the value of their precious-metal content; and

- b. Gold, silver, platinum, or palladium coins, rounds, or bars—including coins produced by the United States Mint—that do not have collectible value above the value of their precious-metal content.

48. Members of the Numismatist United Legal Defense engage in interstate and international commerce by buying and selling

- a. Gold-, silver-, or copper-containing coins, including United State coins, that have collectible value above the value of their precious-metal content; and
- b. Gold, silver, platinum, palladium, rhodium, or copper coins, rounds, or bars—including coins produced by the United States Mint—that do not have collectible value above the value of their precious-metal content.

49. Under the Supreme Court’s Dormant Commerce Clause jurisprudence, a law burdening interstate commerce is unconstitutional if “the burden imposed on such commerce is clearly excessive in relation to the putative local benefits”—and this is true even if the law does not discriminate against out-of-state business. *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970); *see also Edgar v. MITE Corp.*, 457 U.S. 624, 643–46 (1982); *Great Atlantic & Pac. Tea Co. v. Cottrell*, 424 U.S. 366, 371–72 (1976); *Bibb v. Navajo Freight Lines, Inc.*, 359 U.S. 520, 529–30 (1959); *Edgar*, 457 U.S. at 640 (plurality opinion).

50. Chapter 80G’s burdens on interstate commerce—and on international commerce—are so drastic that no state interest advanced by the law can justify them.

51. One of ch. 80G’s burdens on interstate commerce is the chapter’s requirement that out-of-state dealers obtain a Minnesota license to buy or sell in Minnesota things that are bullion products in the term’s ordinary sense—i.e., coins or bars made from gold or

silver.

52. Another of ch. 80G's burdens on interstate commerce is that out-of-state transactions by a dealer—regardless of whether the dealer resides in Minnesota—count towards the annual transaction threshold that triggers the registration requirement. Minn. Stat. § 80G.02, subd. 1.

53. Additionally, ch. 80G burdens interstate commerce because out-of-state transactions by a dealer—regardless of whether the dealer resides in Minnesota—count in determining the amount of the surety bond that the dealer is required to maintain: the larger the amount of transactions, the larger the required bond. *Id.* § 80G.06, subd. 1.

54. Moreover, because “dealer” is defined to include “any person who buys, sells, solicits, or markets bullion products or investments in bullion products to consumers and: (1) is *incorporated, registered, domiciled, or otherwise located in this state,*” *id.* § 80G.01, subd. 3(a) (emphasis added), a Minnesota resident can reach the transaction threshold that triggers the registration requirement *entirely* through out-of-state transactions. And, having triggered the registration requirement, the Minnesota resident will then be subject to civil and criminal liability for engaging in another out-of-state bullion transaction, even if the Minnesota resident has never bought or sold bullion or an investment in bullion in Minnesota. *Id.* §§ 80G.02, subd. 1, 80G.08.

55. A somewhat more subtle burden of the law is that, because of the breadth of § 80G.01, subd. 3's definition of “dealer,” the chapter can require registration for “consumer”-to-“consumer” transactions. A person does not actually need to be in the business of buying or selling bullion on anything like a regular basis to be required to register—even a single transaction between friends can trigger the registration requirement.

56. Chapter 80G provides no safe harbor for determining that a person is not a “consumer.”

57. Worse still, the statutory language suggests that “dealers” are themselves “consumers.”

58. People buying gold or silver coins or bars are very rarely doing so to consume these goods—almost always the buyer is buying as an investment. So for the law to actually apply to anybody, “consumer” must be interpreted to mean “investor,” i.e., a person who buys in the hope of later reselling at a higher price and thus making a profit. But this is exactly what those who regularly buy and sell precious-metal coins or bars do. They buy and then resell, or try to resell, at a higher price. Dealers in the ordinary sense are investors and are hence “consumers” under ch. 80G.

59. Furthermore, the definition of “dealer” contains a dealer-to-dealer exception that would be superfluous if dealers were not themselves “consumers”:

(b) A dealer does not include any of the following persons:

(1) *a person who engages only in wholesale bullion product transactions with other persons who engage only in wholesale bullion product transactions or with dealers who buy or sell at retail and are properly registered under this chapter.*

Minn. Stat. § 80G.01, subd. 3(b)(intro.)–(1) (emphasis added).

60. Chapter 80G’s rule that anybody who sells to, or buys from, a “consumer” is a “dealer” has startling consequences. It means that a person who does not regularly buy or sell bullion, but who wants to buy some gold or silver as an investment, will need to register to buy more than \$25,000 in gold or silver. And this will be true regardless of the seller’s identity.

61. But some of the chapter’s greatest burdens on interstate commerce, although

very real, may not be as easy to glean from a first reading of the law. This is true for several reasons, one of which is that the chapter regulates the sale of far more than gold and silver. The chapter defines “bullion product” to include “any coin, round, bar, or ingot containing silver, gold, *platinum, palladium, or other precious metal.*” *Id.* § 80G.01, subd. 2 (emphasis added).

62. The core species of the category “precious metals,” as ordinarily understood, are gold and silver. Platinum and palladium are marginal species—included in some persons’ understanding but not in others’ understanding. But ch. 80G’s definition includes not only the explicitly enumerated “silver, gold, platinum, [and] palladium,” but also “other precious metal[s]” in addition to those explicitly enumerated. *Id.*

63. Under one of Minnesota’s codified rules of statutory interpretation, “[e]very law shall be construed, if possible, to give effect to all its provisions.” *Id.* § 645.16(para. 1).

64. This rule raises the question whether a court can reasonably give meaning to the term “other precious metals” in Minn. Stat. § 80G.01, subd. 2. If a court can, then, under § 645.16(para. 1), the court must.

65. And a court can. Some bullion dealers buy and sell rhodium bars that are made to be used as, and that are marketed as, commodity investments like gold and silver bars.

66. For example, the online bullion dealer Golden Eagle Coins’ website includes a webpage listing the rhodium bars that Golden Eagle Coins has for sale. Here is a partial screenshot showing part of that webpage:

Buy Rhodium

Rhodium represents a solid choice for those diversifying into other precious metals. Golden Eagle Coins offers Rhodium bars in One Ounce & Five Ounce sizes. To buy rhodium online simply lock in the price at any time as you would any other precious metals product. Rhodium spot price was as high as 10K per ounce as recently as 2008 and represents a great play in the metals market. Each bar comes in a tamper-resistant certificate card with unique serial number from the Baird Mint.



Metal/Chg	Bid	Ask
RHODIUM	\$12,500.00	\$13,000.00

Updated: 03/10/20 11:45:01

[Read More](#) ▼

Search...

Sort by: **Default** ▼

Page: **1**

4 Items

Items per page: **Default** ▼



Baird Mint One Ounce Rhodium Bar

Rhodium is one rarest of all precious metals. A naturally silvery-white metal, rhodium is chemically inert and a member of the platinum group of elements. Rhodium was discovered in 1803 by William ... [\(more\)](#)

Inventory: 2 In Stock

Ships: 03-12-2020

Product ID: 11697

As low as: **\$11,200.00**

Qty	Wire/Check	Bitcoin	CC/PayPal
Any	\$11,200.00	\$11,312.00	\$11,648.00

Enter Qty

+ Add to Cart



Baird Mint Half Ounce Rhodium Bar

Inventory: Out of Stock

Product ID: 34160

As low as: **\$5,600.00**

[Notify Me!](#)



Baird Mint 5 Ounce Rhodium Bar

Five Ounces of pure rhodium nicely packaged by Baird mint & Co. LONDON. Each

As low as: **\$56,000.00**

Buy Rhodium, Golden Eagle Coins, <https://www.goldeneaglecoin.com/buy-rhodium> (last visited Mar. 10, 2020).

67. Similarly, the online bullion dealer Money Metals Exchange's website includes a webpage promoting the rhodium bars that Money Metals Exchange has for sale. Here is a partial screenshot showing part of that webpage:

Money Metals Exchange / Rhodium

Rhodium Bullion at the Lowest Price Per Ounce

Buy Rhodium Bars from Money Metals Exchange

Precious Metals

- Silver
- Gold
- Platinum
- Palladium
- Rhodium
- Buy Copper
- Pre-Made Portfolios
- Today's Specials

Other Items

- Survival-Goods.com Store
- Gifts & Special Occasions
- Miscellaneous Products



1 Oz Rhodium Bars

[View Details](#)

+
ADD TO CART



Rhodium Bar - 5 Ounce

[View Details](#)

+
ADD TO CART

Rhodium Bullion at the Lowest Price Per Ounce, Money Metals Exchange,

<https://www.moneymetals.com/buy/rhodium> (last visited Mar. 10, 2020). Here is a partial screenshot showing part of Money Metals Exchange’s webpage specifically promoting one-ounce rhodium bars:

Money Metals Exchange / Rhodium / 1 Oz Rhodium Bars

1 Oz Rhodium Bars

★★★★★ 2 Reviews

\$13,255.00 (as low as \$155.00 over spot)

1

Your Item Total: \$13,275.00

*Prices will automatically update every minute

Quantity	Premium/Oz	Total Price Each
1 - 19	\$175.00	\$13,275.00
20 - 99	\$155.00	\$13,255.00
100+	Call for discount	

Rhodium Price: \$13,100.00 0.00

VeriSign digicert BBB ACCREDITED BUSINESS

FREE SHIPPING
ON ALL \$500+ ORDERS
→ CLICK HERE FOR DETAILS ←

1 Oz Rhodium Bars, Money Metals Exchange, <https://www.moneymetals.com/rhodium-bar-1-oz/51> (last visited Mar. 10, 2020).

68. The online bullion dealer Bullion Exchanges also sells rhodium bars through its website. Here is a partial screenshot showing part of Bullion Exchange’s webpage dedicated specifically to promoting rhodium bars:

 Get Price Alert

 Get Market Alert

RECENTLY VIEWED ITEMS

1 Oz PAMP Suisse Rhodium Bar
.999 Fine (In Assay)

METAL	BID	ASK	CHANGE
GOLD	\$1,658.10	\$1,660.30	▼ -\$1.40
SILVER	\$17.03	\$17.13	▲ \$0.09
PLATINUM	\$868.90	\$878.90	▲ \$3.00
PALLADIUM	\$2,305.70	\$2,455.70	▲ \$13.30

BUY RHODIUM BULLION ONLINE

1 Item(s)

IN STOCK ONLY

SORT BY: PRICE ▼

SHOW: 36 ▼ PER PAGE

GRID  LIST 



1 oz PAMP Suisse Rhodium Bar .999
Fine (In Assay)

As low as: \$13,000.00

ADD TO CART

1 Item(s)

Precious metals are valued so highly in part due to their rarity, and some are rarer than others. For instance, platinum is in fact 15-20 times rarer than gold or silver. There are six rare precious metals that fall in the Platinum Group of Metals, or Platinum Group of Elements: [Platinum](#), [Palladium](#), Ruthenium, Iridium, Osmium, and Rhodium. This group of metals is found in very limited quantity as a

Buy Rhodium Bullion Online, Bullion Exchanges, <https://bullionexchanges.com/buy-rhodium> (last visited Mar. 10, 2020).

69. Likewise, some bullion dealers sell copper bars or rounds that have been made as bullion investments.

70. For example, Golden Eagle Coins' website includes a webpage listing the copper rounds that Golden Eagle Coins has for sale. Here is a partial screenshot showing part of that webpage:

Location: Buy Copper

Buy Copper

Buying copper rounds & coins has never been easier. A great way to speculate and diversify your metals portfolio. These uniquely designed rounds also make great gifts for kids and loved ones alike. They are competitively priced and meticulously packed.



Search...

Sort by: Default

Page: 1

9 Items

Items per page: Default



Copper Bullion 5 oz Incuse Indian Round

Inventory: Available

Product ID: 24135

As low as: **\$7.50**

Qty	Wire/Check	Bitcoin	CC/PayPal
Any	\$7.50	\$7.58	\$7.80

Enter Qty

+ Add to Cart



Copper Bullion 1 oz Buffalo Round

Inventory: Out of Stock

Product ID: 22976

As low as: **\$1.49**

[Notify Me!](#)



Copper Bullion 1 oz Walking Liberty Round

Inventory: Out of Stock

Product ID: 22977

As low as: **\$1.49**

[Notify Me!](#)

Buy Copper, Golden Eagle Coins, <https://www.goldeneaglecoin.com/buy-copper> (last visited Mar. 10, 2020).

71. Similarly, Money Metals Exchange's website includes a webpage promoting the copper bars and rounds that Money Metals Exchange has for sale. Here is a partial screenshot showing part of that webpage:

Copper Bullion Rounds, Bars & Pennies at the Lowest Price

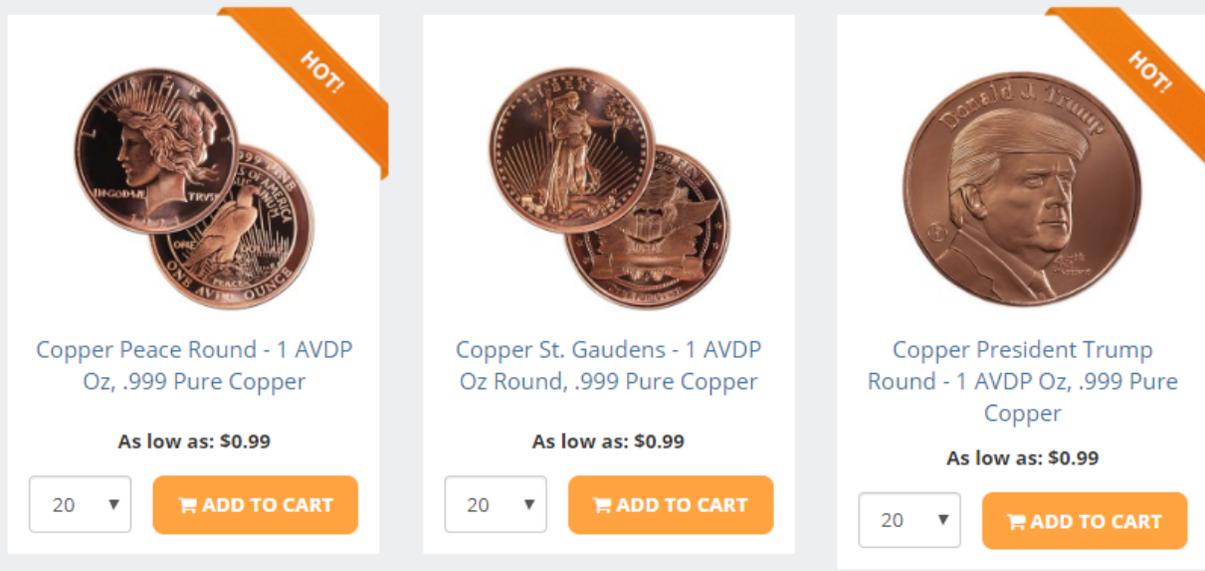
Should You Buy Copper Bullion?

- **It's the Metal for the Era of Trump – You Can't Build Infrastructure Without Copper!**
- **You Can Still Buy Copper at Near *Absolute Melt Value* – Almost ZERO Over Spot**
- **PLUS Gleaming 1 oz. **Copper Rounds** – Any Design, a Buck Apiece**

Copper is essential in the modern economy. Electronics, automobiles, and utilities among other things can't function without it. Optimism surrounding the President's \$1 trillion dollar infrastructure spending proposal and his efforts to support U.S. manufacturing is driving copper prices higher.

Donald Trump's pro-business plans are very bullish for copper. This rally may just be getting started and savvy investors are taking notice.

Precious metals investors – and dealers – tend to overlook copper. We think that's a mistake; Money Metals is actually *stocking up* on copper pennies and rounds to meet the demands of our savvy customers.

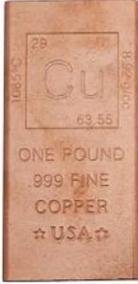


The screenshot displays three product cards for copper bullion rounds. Each card features an image of the round, a 'HOT!' banner in the top right corner, a description, a price, and an 'ADD TO CART' button. The first card shows a Peace Round with the text 'Copper Peace Round - 1 AVDP Oz, .999 Pure Copper' and 'As low as: \$0.99'. The second card shows a St. Gaudens round with the text 'Copper St. Gaudens - 1 AVDP Oz Round, .999 Pure Copper' and 'As low as: \$0.99'. The third card shows a President Trump round with the text 'Copper President Trump Round - 1 AVDP Oz, .999 Pure Copper' and 'As low as: \$0.99'. Each card also includes a quantity selector set to '20' and an 'ADD TO CART' button.

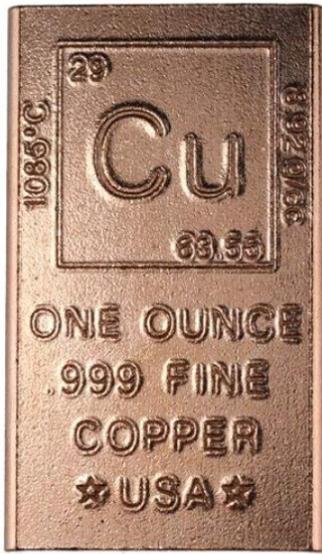
Copper Bullion Rounds, Bars & Pennies at the Lowest Price, Money Metals Exchange,

<https://www.moneymetals.com/buy/copper> (last visited Mar. 10, 2020).

72. Indeed, many copper bullion products are available for purchase through Amazon. Here is a partial screenshot showing the first eight results from a search for the term “copper bullion” on Amazon’s website:

 <p>1 Pound Copper Bar Bullion Paperweight - 999 Pure Chemistry Element Design by Metallum Gifts ★★★★★ ~ 197 \$20⁹⁹ ✓prime FREE Delivery Thu, Mar 12</p>	<p>Amazon's Choice</p>  <p>1 Ounce Copper Bar Bullion Element Design (1 Oz Copper Bar) ★★★★★ ~ 21 \$7⁹⁹ ✓prime FREE Delivery Thu, Mar 12</p>	 <p>REEDERSONG Roll Pure Copper Bullion Rounds 20 Copper Coins New from Mint in Sure-Safe Tube ★★★★★ ~ 6 \$35⁸⁹ \$4.49 shipping Only 3 left in stock - order soon. Ages: 18 years and up</p>	 <p>COPPER BAR- 1 LB.-RANDOM DESIGN-.999 FINE- 1 POUND COPPER ★★★★★ ~ 9 \$16⁹¹ \$22.95 \$5.01 shipping Only 4 left in stock - order soon.</p>
 <p>Half Pound Copper Bar Bullion Paperweight with Element Design (1/2 Pound Copper Bar) ★★★★★ ~ 4 \$16⁹⁹ ✓prime FREE Delivery Thu, Mar 12</p>	 <p>1 Pound (Flat Style) Copper Bar + 5 (Five) 1 Ounce Copper Rounds @ Great Price ★★★★★ ~ 18 \$29⁶⁹ \$4.64 shipping Only 2 left in stock - order soon.</p>	 <p>Copper Flat Bar Stock 1/8" x 1" x 6"- Knife making, hobby, craft, C110-1 Bar ★★★★★ ~ 13 \$11⁵² ✓prime FREE Delivery Thu, Mar 12</p>	 <p>Pure Copper Bullion 1 Ounce Rounds Roll of 20 ★★★★★ ~ 17 \$29⁸⁹ \$5.21 shipping Only 1 left in stock - order soon. Ages: 12 years and up</p>

Amazon, https://www.amazon.com/s?k=copper+bullion&ref=nb_sb_noss_1 (last visited Mar. 10, 2020). Here is a partial screenshot showing part of the product page for the second of these search results, i.e., the copper bar labeled “Amazon’s Choice”:



Click image to open expanded view

1 Ounce Copper Bar Bullion Element Design (1 Oz Copper Bar)

by Unique Metals

★★★★★ 21 ratings

Amazon's Choice for "copper bullion"

Price: \$7.99 prime & FREE Returns

Your cost could be \$0.00. Eligible customers get a \$10 bonus when reloading \$100.

Sold by Unique Metals and Fulfilled by Amazon. This item is returnable

- Weight: 1 oz. - Size: 1.25" x 1" x 1.5"
- .999 PURE Copper Bar Bullion
- Front: Element design "ONE OUNCE .999 FINE COPPER USA"
- Makes a great gift for chemistry students/teachers!

Report incorrect product information.

TYH SUPPLIES®
100 Pack
Heavyweight Cle...
TYH Supplies 100 Pack...
\$11.99 prime



\$7.99

prime & FREE Returns

FREE delivery: Thursday
Order within 16 hrs 53 mins Details

Deliver to Jordan - Minneapolis 55404

In Stock.

Qty: 1

Add to Cart

Buy Now

Sold by Unique Metals and Fulfilled by Amazon.

Add gift options

Add to your Dash Buttons

Learn more about Dash Buttons

Add to List

1 Ounce Copper Bar Bullion Element Design (1 Oz Copper Bar), Amazon,

[https://www.amazon.com/Ounce-Copper-Bullion-Element-](https://www.amazon.com/Ounce-Copper-Bullion-Element-Design/dp/B07MMTRMZY/ref=sr_1_2?keywords=copper+bullion&qid=1583892381&sr=8-2)

[Design/dp/B07MMTRMZY/ref=sr_1_2?keywords=copper+bullion&qid=1583892381&sr=8-2](https://www.amazon.com/Ounce-Copper-Bullion-Element-Design/dp/B07MMTRMZY/ref=sr_1_2?keywords=copper+bullion&qid=1583892381&sr=8-2) (last visited Mar. 10, 2020).

73. Since these rhodium and copper products are being marketed as bullion investments, a court must treat them as being “bullion product[s]” within the meaning of § 80G.01, subd. 2 so as to give meaning to the term “other precious metal.” In so doing, the court will necessarily be treating rhodium and copper as “precious metal[s],” even though rhodium and copper are outside of the ordinary person’s understanding of that category.

74. And treating copper as a precious metal has implications that are bizarre—and highly burdensome to interstate commerce. Because copper is a “precious metal” for purposes of § 80G.01, subd. 2, any copper “round, bar, or ingot,” not just those made for investment purposes, is a “bullion product” under § 80G.01, subd. 2.

75. This means that copper bar stock, of the kind used for industrial, manufacturing, or building purposes, is a “bullion product” for purposes of ch. 80G, and the sale of copper bar stock to “a consumer” thus requires a state-issued license if the seller has exceeded the transaction threshold that triggers the registration requirement. Furthermore, sales or purchases of copper bar stock in “transactions with consumers” count toward that threshold.

76. Moreover, the search for the term “copper bullion” on Amazon’s website yielded several other types of copper bar stock further down on the first page of search results. Amazon, https://www.amazon.com/s?k=copper+bullion&ref=nb_sb_noss_1 (last visited Mar. 10, 2020).

77. Here is partial screenshot showing part of the product page for the second type of copper bar stock listed in the search results from the same search:



by Stoner Metals
1/4"x 1-1/2" C110 COPPER BAR 10" long Solid Flat Bar .25" Mill Bus Bar Stock H02
★★★★★ 5 ratings

Price: **\$21.59 & FREE Shipping**

Ships from and sold by Stoner Metals.

New (2) from **\$21.59 + FREE Shipping**

Specifications for this item

Brand Name	Stoner Metals
Item Shape	Bar Stock , Flat Bar
Measurement System	English
Number of Items	1
Part Number	AB566
UNSPSC Code	41000000

1/4"x 1-1/2" C110 COPPER BAR 10" long Solid Flat Bar .25" Mill Bus Bar Stock H02,
Amazon, <https://www.amazon.com/C110-COPPER-long-Solid->

Stock/dp/B01F80W8VK/ref=sr_1_11?keywords=copper+bullion&qid=1583894656&sr=8-11 (last visited Mar. 10, 2020).

78. Furthermore, because copper is a “precious metal” for purposes of § 80G.01, subd. 2, any copper “coin” is a “bullion product” under § 80G.01, subd. 2. This means that a copper penny is a “bullion product” under § 80G.01, subd. 2, even if the penny is being bought for its numismatic value rather than as a vehicle for investing in copper.

79. Nor do the strange implications of treating copper as a precious metal end there. This is because a person might buy and hold almost any metal as an investment. Iron and nickel, for example, are traded in commodities markets, and their prices fluctuate. A person could buy iron or nickel ingots in the hope of reselling at a profit. And since the definition of “bullion product” is broad enough to include a bar of copper—which is not a precious metal in the ordinary sense—there is no principled reason for excluding any metal that can be bought in the form of a round, bar, or ingot. A rusty slab of iron qualifies as a “bullion product” under § 80G.01, subd. 2.

80. As a further example, the online bullion dealer Rare World Metals Mint markets, as investments, ingots of a wide variety of metals not ordinarily regarded as precious metals, including aluminum, antimony, bismuth, chromium, cobalt, copper, dysprosium, erbium, gadolinium, and germanium. *Elemental Metals We Offer*, Rare World Metals Mint, <https://www.rwmmint.com/collections/all?page=1> (last visited July 01, 2020). And, yes, the company sells nickel ingots too. *Elemental Metals We Offer*, Rare World Metals Mint, <https://www.rwmmint.com/collections/all?page=2> (last visited July 01, 2020). The company even offers a special “nickel pounder pack,” which consists of a tube of 16 1-ounce nickel ingots. *Nickel Pounder Pack*, Rare World Metals Mint,

<https://www.rwmmint.com/products/nickel-ni-1> (last visited July 01, 2020).

81. Another reason that ch. 80G is more burdensome than it might first appear is that the chapter requires a dealer to register before buying from, or selling to, “a consumer” “bullion products *or investments in bullion products*,” if the dealer’s “bullion product transactions with consumers” reaches the annual \$25,000 threshold. Minn. Stat. § 80G.02, subd. 1 (emphasis added).

82. Precious-metal exchange-traded funds (ETFs) such as SPDR Gold Shares (Ticker: GLD), iShares Silver Trust (Ticker: SLV), Aberdeen Standard Physical Platinum Shares ETF (Ticker: PPLT), and Aberdeen Standard Physical Palladium Shares ETF (Ticker: PALL) are not “bullion products,” but they are “*investments in bullion products*.” Each fund owns bars of the metal in which it invests.

83. Thus buying or selling shares in a precious-metal ETF through a stock exchange makes a person a “dealer” and counts towards the registration threshold. Once a person has reached the registration threshold, the person must register to buy or sell a single share of a precious-metal ETF regardless of how expensive the registration process is in relation to the value of the ETF shares that the person wants to buy or sell. And a person might reach the registration threshold through transactions in “bullion products,” “investments in bullion products,” or any combination of the two.

84. Styczinski, as part of his business practices, continually seeks new vehicles for investing in precious metals through interstate commerce.

85. But ch. 80G requires Styczinski to register before buying or selling precious-metal ETFs above the registration threshold, even if the purchase or sale takes place entirely outside of Minnesota.

86. Likewise, ch. 80G requires a member of Numismatist United Legal Defense who is a Minnesota resident to register before the member may buy or sell precious-metal ETFs above the registration threshold, even if the purchase or sale takes place entirely outside of Minnesota.

87. Chapter 80G may requires a member of Numismatist United Legal Defense to register before buying or selling a precious-metal ETF, even if the member has no presence in Minnesota.

88. Chapter 80G burdens market participants outside of Minnesota because, once a person has reached the registration threshold, the person must be registered to buy a share of a precious-metal ETF from, or sell a share to, a “consumer” in Minnesota.

89. Moreover, people and businesses typically trade shares of ETFs through computerized transactions in conditions in which the buyer and seller are unknown to each other. When a person places a trade through a broker, a computerized trading system anonymously matches the buyer or seller with a person on the other side of the transaction: a buyer with a seller. A person placing a trade has no idea of who is actually going to be on the other side, and thus no way of knowing whether the person will be a Minnesota “consumer.” Anybody, anywhere in the world, who buys or sells a share of a precious-metal ETF thus risks unknowingly trading with a Minnesota “consumer.” If a person has reached the registration threshold—something that the person might have done entirely through out-of-Minnesota transactions—and if the person trades a single share of a precious-metal ETF with a Minnesota “consumer,” then the person will have violated Minnesota law unless the person was registered.

90. Chapter 80G poses a similar burden on interstate commerce through its

regulation of commodities-futures contracts. Futures contracts for the delivery of any metal that is a “precious metal” under Minn. Stat. § 80G.01, subd. 2 are “investments in bullion products” for purposes of Minn. Stat. § 80G.02, subd. 1’s registration requirement. Trading in precious-metal futures contracts thus counts towards the registration threshold for the same reasons that trading in precious-metal ETFs counts.

91. Chapter 80G requires Styczinski to register before buying or selling a precious-metal futures contract above the registration threshold, even if the purchase or sale takes place entirely outside of Minnesota.

92. Likewise, ch. 80G requires a member of Numismatist United Legal Defense who is a Minnesota resident to register before the member may buy or sell a precious-metal futures contract above the registration threshold, even if the purchase or sale takes place entirely outside of Minnesota.

93. Chapter 80G may requires a member of Numismatist United Legal Defense to register before buying or selling a precious-metal futures contract, even if the member has no presence in Minnesota.

94. Chapter 80G interferes with interstate and international commerce by isolating Minnesotans and Minnesota businesses like Styczinski and Tom “The Coin Guy”, LLC from the global commodities markets by requiring them to obtain a state-issued license to participate in those markets.

95. Furthermore, ch. 80G burdens commodity-market participants all over the country—and all over the world—because of the risk that participants will, if only unknowingly, trade with a Minnesota “consumer” through a computerized market transaction.

96. Chapter 80G’s burdens on interstate commerce—and international commerce—are so severe that no local interest of Minnesota’s can justify them.

97. Because ch. 80G violates the dormant Commerce Clause, it is unconstitutional. Injunctive relief should be granted to enjoin the defendant from enforcing the chapter.

Count 2: Dormant Commerce Clause—Facial Discrimination Against Out-of-State Commerce

98. The plaintiffs incorporate this complaint’s previous paragraphs.

99. “Under [the Supreme Court’s] dormant Commerce Clause cases, if a state law discriminates against out-of-state goods or nonresident economic actors, the law can be sustained only on a showing that it is narrowly tailored to “advanc[e] a legitimate local purpose.”” *Tenn. Wine & Spirits Retailers Ass’n v. Thomas*, 139 S.Ct. 2449, 2461 (2019) (second alteration in original) (quoting *Department of Revenue of Ky. v. Davis*, 553 U.S. 328, 338 (2008)). For purposes of this rule, “‘discrimination’ simply means differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter.” *Oregon Waste Systems, Inc. v. Department of Environmental Quality of Ore.*, 511 U.S. 93, 99 (1994), *quoted approvingly in United Haulers Ass’n, Inc. v. Oneida-Herkimer Solid Waste Mgmt. Auth.*, 550 U.S. 330, 338 (2007) and *Granholm v. Heald*, 544 U.S. 460, 472 (2005).

100. Chapter 80G’s exception to dealer status—and hence to the registration requirement—for participation at up to twelve in-state trade shows per year discriminates against out-of-state trade shows and those who participate in them. This is because § 80G.01, subd. 3’s definition of “dealer” contains an exception for transactions at trade shows held in Minnesota, but no exception for transactions at trade shows anywhere else:

(b) A dealer does not include any of the following persons:

...

(5) a person who engages only in transactions at no more than 12 trade shows per year *in this state* where the consumer is present and the transaction is made at the trade show.

Minn. Stat. § 80G.01, subd. 3(b)(intro.), (5) (emphasis added). This means that a person can avoid the registration requirement, regardless of the person’s sales volume, just as long as the person does business exclusively at in-state trade shows and does not do business at more than twelve trade shows in one year. But any transaction at an out-of-state trade show counts towards the registration threshold. Indeed, one can cross the threshold and become subject to the registration requirement merely by buying and selling \$25,000 in “bullion product[s]” at a single out-of-state trade show. If a person crosses the threshold, then the person must register before engaging in any bullion transaction, no matter how small, in Minnesota (or, outside of Minnesota, if the person is “incorporated, registered, domiciled, or otherwise located in” Minnesota, *id.* § 80G.01, subd. 3(a)(1), or if the person is a “dealer” as a result of having previously “[done] business with a consumer” in Minnesota, *id.* § 80G.01, subd. 3(a)(3)).

101. This means that ch. 80G burdens out-of-state trade shows in a way that it does not burden in-state trade shows. The exception for participation at in-state trade shows grants in-state trade shows a special economic advantage that out-of-state trade shows do not have. The exception grants a competitive advantage to in-state shows, insulating them from out-of-state competition.

102. Chapter 80G thus discriminates against out-of-state trade shows, those who organize them, and those who do business at them. Chapter 80G also discriminates against transactions at out-of-state trade shows. Because people are relatively likely to participate at

trade shows in their state of residence, ch. 80G discriminates against out-of-state residents and businesses.

103. Chapter 80G facially discriminates against out-of-state economic actors and out-of-state business. Chapter 80G is also facially protectionist.

104. Chapter 80G's registration requirement is thus unconstitutional unless it is "narrowly tailored to "advanc[e] a legitimate local purpose.'" *Tenn. Wine & Spirits Retailers Ass'n*, 139 S.Ct. at 2461.

105. The inclusion of an exception for in-state trade shows but not for out-of-state trade shows serves no legitimate local purpose. The inclusion of an exception for in-state trade shows but not for out-of-state trade shows is arbitrary, protectionist (and hence illegitimate), or both.

106. Furthermore, the discriminatory exception is not narrowly tailored.

107. Indeed, inclusion of an exception for in-state trade shows but not for out-of-state trade shows serves no discernable interest whatsoever—except, perhaps, actual protectionism—so it is impossible that the discriminatory exception could be narrowly tailored to serve a legitimate local purpose.

108. Members of Numismatist United Legal Defense would like to buy or sell "bullion products" at out-of-state trade shows, but members are reluctant do so for fear of triggering or violating ch. 80G's registration requirement.

109. Chapter 80G's registration requirement is unconstitutional under the dormant Commerce Clause. Injunctive relief should be granted to enjoin the defendant from enforcing the chapter.

Count 3: Dormant Commerce Clause—Extraterritoriality

110. The plaintiffs incorporate this complaint’s previous paragraphs.

111. In addition to prohibiting discrimination against out-of-state goods and businesses and prohibiting undue incidental burdens on interstate commerce, the dormant Commerce Clause also prohibits states from regulating commerce extraterritorially, i.e., regulating commerce conducted outside the borders of the state with the law at issue. *E.g.*, *Healy v. Beer Inst.*, 491 U.S. 324, 335–37 (1989); *Brown–Forman Distillers Corp. v. N.Y. State Liquor Auth.*, 476 U.S. 573, 578–84 (1986); *Baldwin v. G.A.F. Seelig, Inc.*, 294 U.S. 511, 521 (1935); *Edgar*, 457 U.S. at 640–43 (plurality opinion); *Midwest Title Loans, Inc. v. Mills*, 593 F.3d 660, 665–68 (7th Cir. 2010); Susan Lorde Martin, *The Extraterritoriality Doctrine of the Dormant Commerce Clause is Not Dead*, 100 Marq. L. Rev. 497–526, (Winter 2016) (explaining the dormant Commerce Clause extraterritoriality doctrine in depth).

112. The Supreme Court has explained that “a statute that directly controls commerce occurring wholly outside the boundaries of a State exceeds the inherent limits of the enacting State’s authority and is invalid regardless of whether the statute’s extraterritorial reach was intended by the legislature. The critical inquiry is whether the practical effect of the regulation is to control conduct beyond the boundaries of the State.” *Healy*, 491 U.S. at 336 (citing *Brown–Forman*, 476 U.S. at 579). In applying this test, “the practical effect of the statute must be evaluated not only by considering the consequences of the statute itself, but also by considering how the challenged statute may interact with the legitimate regulatory regimes of other States and what effect would arise if not one, but many or every, State adopted similar legislation. Generally speaking, the Commerce Clause protects against inconsistent legislation arising from the projection of one state regulatory regime into the

jurisdiction of another State.” *Id.* at 336–37 (citing *CTS Corp. v. Dynamics Corp. of America*, 481 U.S. 69, 88–89 (1987)).

113. Crucially for this case, the Supreme Court has laid down the categorical rule “that no State may force an out-of-state merchant to seek regulatory approval in one State before undertaking a transaction in another.” *Id.* at 337 (citing *Brown–Forman*, 476 U.S. at 582).

114. Under this strand of the dormant Commerce Clause doctrine, ch. 80G’s registration requirement is an impermissible extraterritorial regulation of commerce because it regulates and burdens—and can outright prohibit—transactions that take place entirely outside of Minnesota. One reason is that bullion transactions conducted entirely outside of Minnesota count towards the registration threshold. Another reason is that the prohibition on engaging in bullion transactions once the registration threshold has been reached contains no exception for out-of-state transactions.

115. By counting out-of-state transactions towards the registration threshold, ch. 80G disincentivizes out-of-state transactions, and the registration requirement’s “practical effect” is thus “to control conduct beyond the boundaries of” Minnesota. *Id.* at 336.

116. Worse still, ch. 80G creates the possibility of liability for transactions occurring entirely outside of Minnesota and that, indeed, have almost no connection to Minnesota. If a person is a “dealer” under any clause of § 80G.01, subd. 3(a), and if the person crosses the registration threshold without registering, then the person might break Minnesota law by engaging in a bullion transaction that takes place entirely outside of Minnesota. A purchase or sale in Seattle (or Timbuktu) will do it. For those persons who are within the definition of “dealer,” Minnesota has sought to impose its regulatory scheme on

the entire universe: ch. 80G “directly controls commerce occurring wholly outside the boundaries of” Minnesota, and is thus unconstitutional. *Id.*

117. As already explained in count I, any Minnesota resident (outside of narrow exceptions) is a “dealer” if the person buys or sells bullion, *even if the person buys or sells only outside of Minnesota*. See Minn. Stat. § 80G.01, subd. 3(a). And because a “dealer” can become subject to—and then violate—the registration requirement entirely through out-of-state transactions, this means that Minnesota imposes its regulatory scheme on its residents wherever they go in the world. See *id.* § 80G.02, subd. 1. A Minnesota resident might become subject to—and then violate—the registration requirement entirely through transactions at coin shows in Las Vegas.

118. Styczinski, as part of his business practices, continually seeks new opportunities for buying or for selling in interstate commerce and would like to engage in entirely out-of-state transactions. But ch. 80G’s extraterritorial reach limits his ability to do so.

119. Likewise, some members of Numismatist United Legal Defense who reside in Minnesota continually seek, as part of their business practices, new opportunities for buying or selling in interstate commerce and seek to engage in entirely out-of-state transactions. But ch. 80G’s extraterritorial reach limits their ability to do so.

120. The requirement that a “dealer” must obtain a Minnesota license to buy or sell in another state flagrantly violates the categorical rule “that no State may force an out-of-state merchant to seek regulatory approval in one State before undertaking a transaction in another.” *Healy*, 491 U.S. at 337.

121. If every state adopted a regulatory scheme like Minnesota’s, a person might

need a license from every state to do business in any state (or in a foreign country).

122. Members of Numismatist United Legal Defense would like to buy or sell “bullion products or investments in bullion products” in transactions with “consumers” outside of Minnesota, but members are reluctant do so for fear of triggering or violating ch. 80G’s registration requirement.

123. Because ch. 80G violates the dormant Commerce Clause, it is unconstitutional. Injunctive relief should be granted to enjoin the defendant from enforcing the chapter.

Count 4: Void for Vagueness

124. The plaintiffs incorporate this complaint’s previous paragraphs.

125. The Fourteenth Amendment’s Due Process Clause prohibits the state from taking away someone’s liberty or property under a law—criminal or civil—so vague that it fails to give ordinary people fair notice of the conduct that it prohibits, or so standardless that the law invites arbitrary enforcement.

126. As this complaint’s previous counts have already suggested, ch. 80G is unconstitutionally vague in several respects.

127. Chapter 80G is unconstitutionally vague regarding the class of persons to whom it applies: ch. 80G is vague as to who is a “dealer” or “dealer representative.” As already explained, the law appears to apply to persons who do not regularly buy or sell bullion and who are thus not “dealers” in the ordinary sense. Indeed, the law appears to apply to persons who are themselves “consumers”—potentially the law can apply even to a person who has engaged in only one sale or purchase of bullion in the person’s entire life. In

practice, ch. 80G fails to impart fair notice of the persons to whom it will actually be applied, thus inviting arbitrary enforcement.

128. Furthermore, the definitions of “dealer” and “dealer representative” suffer from a circular interrelation problem. The chapter defines “dealer” to include

any person who buys, sells, solicits, or markets bullion products or investments in bullion products to consumers and:

...

(2) has a *dealer representative* located in this state.

Minn. Stat. § 80G.01, subd. 3(a) (emphasis added). And the chapter defines “dealer representative” to include

any natural person acting as an employee, contractor, or agent of a *dealer* and who has interactions with consumers for the purpose of the buying, selling, solicitation, or marketing of bullion products or investments in bullion products.

Id., subd. 4 (emphasis added). The law thus defines “dealer” by using the defined term “dealer representative” and defines “dealer representative” by using the defined term “dealer.” This is another reason why ch. 80G fails to impart fair notice of the persons to whom it will actually be applied.

129. An additional source of vagueness in the definition of “dealer,” is the exception for persons engaged exclusively in wholesaler-to-wholesaler transactions:

(b) A dealer does not include any of the following persons:

(1) *a person who engages only in wholesale bullion product transactions with other persons who engage only in wholesale bullion product transactions* or with dealers who buy or sell at *retail* and are properly registered under this chapter.

Minn. Stat. § 80G.01, subd. 3(b)(intro.)–(1) (emphasis added). Chapter 80G does not define “wholesale” or “retail.”

130. Although these terms may have generally understood meanings, they fail, in

context, to impart fair notice of who is within the exception and thus fail to impart fair notice of who is a “dealer.”

131. “Wholesale,” as a noun, is commonly understood to mean “the selling of goods in large quantities to be retailed by others.” *New Oxford American Dictionary* 1974 (3d ed. 2010). This definition, like § 80G.01, subd. 3(b)(1), contrasts the terms *wholesale* and *retail*. Likewise, the most recent edition of *Black’s Law Dictionary* defines a “wholesaler” as

Someone who buys large quantities of goods and resells them in smaller quantities to retailers or other merchants, who in turn sell to the ultimate consumer.

Wholesaler, Black’s Law Dictionary 1914 (11th ed. 2019).

132. But precious-metal coins and bars do not ordinarily have an “ultimate consumer” in the way that a box of breakfast cereal does. As already explained, anybody who buys a precious-metal coin or bar is probably buying for investment—i.e., for the possibility of later resale at a higher price—and not for consumption. Furthermore, anybody who buys several precious-metal coins or bars may well later “resell[] them in smaller quantities” to someone else, regardless of whether the amount initially purchased was 2 or 20,000.

133. “Wholesale,” as an adjective—and the word is used as an adjective in § 80G.01, subd. 3(b)(1)—can mean “done on a large scale; extensive.” *New Oxford American Dictionary* 1974 (3d ed. 2010). But § 80G.01, subd. 3(b)(1)’s contrasting juxtaposition of “wholesale” and “retail” suggests that, in context, “wholesale” implies a sale from a merchant to another merchant rather than to an “ultimate consumer.” Again, the problem is that people typically buy bullion for resale to someone else rather than for consumption. Furthermore, even if “wholesale” means “extensive” in § 80G.01, subd. 3(b)(1), the term is

still vague because the chapter provides no guidance as to how “extensive” a person’s “bullion product transactions” must be to qualify for the exception.

134. In practice, ch. 80G’s exception for persons engaged exclusively in wholesaler-to-wholesaler transactions fails to impart fair notice of the persons who may successfully claim to be within the exception. Because of the centrality of the definition of “dealer” to ch. 80G, the exception’s vagueness invites arbitrary enforcement.

135. Some members of Numismatist United Legal Defense do not regularly buy or sell bullion as part of an ongoing business and are thus not “dealers” in the ordinary sense—some are hobbyists and may well themselves be treated as “consumers” under ch. 80G. In practice, ch. 80G fails to impart to hobbyists fair notice of whether, and under what circumstances, they must register.

136. The defendant engages in arbitrary enforcement under ch. 80G. Treasure Island Coins was a target of enforcement under ch. 80G. Treasure Island Coins remains fearful of future enforcement although it no longer engages in transactions with persons located in Minnesota.

137. Members of Numismatist Legal Defense are fearful of arbitrary enforcement. Some members are Minnesota residents, and members might unknowingly engage in a transaction with a Minnesota resident.

138. Chapter 80G is also unconstitutionally vague regarding the class of transactions to which it applies for at least three reasons.

139. First, ch. 80G is unconstitutionally vague regarding the meaning of the crucial—but undefined—term “consumer.” As already explained, the term “consumer” is essential both to the definition of “dealer,” Minn. Stat. § 80G.01, subd. 3, and to the

subdivision that imposes the registration requirement, *id.* § 80G.02, subd. 1, but the chapter’s use of the term makes the question of who is a “dealer” and who is a “consumer” a labyrinth that nobody can safely navigate. As elaborated above, if the law is interpreted to mean what it appears to mean, then many “consumers” who buy or sell bullion will also be “dealers.” In practice, ch. 80G fails to impart fair notice of the persons who will actually be treated as “consumers,” thus inviting arbitrary enforcement.

140. Second, ch. 80G is unconstitutionally vague regarding the scope of the defined term “bullion product.” *See id.* § 80G.01, subd. 2 (defining the term). As already explained, traditional rules of statutory interpretation imply that the term includes metals beyond the metals explicitly enumerated (silver, gold, platinum, and palladium), but, in practice, the definition fails to impart fair notice of the metals that will be treated as included, thus inviting arbitrary enforcement.

141. Members of Numismatist United Legal Defense would like to buy or sell coins, rounds, bars, or ingots of metals other than silver, gold, platinum, or palladium in transactions with “consumers” inside and outside of Minnesota, but members are reluctant to do so for fear of arbitrary enforcement of ch. 80g’s registration requirement.

142. Third, ch. 80G is unconstitutionally vague regarding the meaning of the undefined term “investments in bullion products,” a term that is essential to the subdivision that imposes the registration requirement. *Id.* § 80G.02, subd. 1. In practice, ch. 80G fails to impart fair notice of the investments that will be treated as “investments in bullion products,” thus inviting arbitrary enforcement.

143. Members of Numismatist United Legal Defense would like to buy or sell shares of precious-metal ETFs in transactions with “consumers” inside and outside of

Minnesota, but members are reluctant do so for fear of arbitrary enforcement of ch. 80g's registration requirement.

144. Because ch. 80G fails to impart fair notice of what it requires or prohibits, the chapter is void for unconstitutional vagueness. Injunctive relief should be granted to enjoin the defendant from enforcing the chapter.

Count 5: Federal Preemption—United States Money

145. The plaintiffs incorporate this complaint's previous paragraphs.

146. Styczinski would like to buy and sell bullion coins issued by the United States Mint to serve as vehicles for investing in precious metals, e.g., Gold Eagles and Silver Eagles.

147. Treasure Island Coins buys and sells bullion coins issued by the United States Mint to serve as vehicles for investing in precious metals, e.g., Gold Eagles, Silver Eagles, Platinum Eagles, and Palladium Eagles.

148. Members of Numismatist United Legal Defense buy and sell bullion coins issued by the United States Mint to serve as vehicles for investing in precious metals, e.g., Gold Eagles, Silver Eagles, Platinum Eagles, and Palladium Eagles.

149. When federal and state laws conflict, "the Supremacy Clause requires courts to follow federal, not state, law." *Barnett Bank of Marion County v. Nelson*, 517 U.S. 25, 30 (1996) (citing U.S. Const., Art. VI, cl. 2 and *California Fed. Sav. & Loan Assn. v. Guerra*, 479 U.S. 272, 280–81 (1987)); see also *Surrick v. Killion*, 449 F.3d 520, 531 (3rd Cir. 2006) ("Under the Supremacy Clause, when state law conflicts or is incompatible with federal law, the federal law preempts the state law.").

150. A federal statute may explicitly preempt state law. *E.g.*, *Barnett Bank*, 517 U.S.

at 31.

151. A federal statute may also preempt state law implicitly, and the Supreme Court has held that a federal statute that lacks an explicit preemption provision preempts any state law with which the federal law is in “irreconcilable conflict.” *Id.* (quoting *Rice v. Norman Williams Co.*, 458 U.S. 654, 659 (1982)).

152. A federal law irreconcilably conflicts with a state law if the state law would “stan[d] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.” *Id.* (quoting *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941)) (alteration in original); *see also Surrick*, 449 F.3d at 531.

153. A state licensing law conflicts with federal law—and is thus preempted—to the extent that it requires a person to obtain a state-issued license before doing something that federal law authorizes the person to do. *See, e.g., Sperry v. Florida*, 373 U.S. 379, 383–85, 400–404 (1963).

154. Bullion coins issued by the United States Mint to serve as vehicles for investing in precious metals, e.g., Gold Eagles, Silver Eagles, Platinum Eagles, and Palladium Eagles are United States money. *See* 31 U.S.C. § 5112(a)(7) (authorizing the minting of the 1-ounce Gold Eagle), (8) (authorizing the minting of the 1/2-ounce Gold Eagle), (9) (authorizing the minting of the 1/4-ounce Gold Eagle), (10) (authorizing the minting of the 1/10-ounce Gold Eagle), (12) (authorizing the minting of the Palladium Eagle), (e) (requiring the minting of Silver Eagles), (h) (making all coins “issued” under title 31 of the United States Code “legal tender”), (k) (authorizing the minting of the Platinum Eagle), (n)(5) ((making all coins “minted” under title 31 of the United States Code “legal tender”), (o)(9) (same), (q)(5) (same). Thus no state may require a license to buy or sell them—under federal

law, they are freely transferable between persons.

155. Likewise, United States gold and silver coins that were minted to be used as ordinary coins, e.g., pre-1933 United States gold coins and pre-1965 United States dimes, quarters, and half dollars that were made from silver, are United States money and are freely transferable between persons.

156. But, by including these coins within the definition of “bullion product,” Minn. Stat. § 80G.01, subd. 2, Minnesota has sought to require a state-issued license to buy or sell them.

157. Indeed, Minnesota’s registration requirement does not even make an exception for United States precious-metal-containing coins used at face value, i.e., as ordinary currency rather than as precious-metal investments. *Id.* § 80G.02, subd. 1.

158. Furthermore, Congress’s authorization of the minting of legal-tender bullion coins manifests a policy of making bullion coins readily available to Americans as a vehicle for investing in precious metals and a policy of making these coins freely transferable.

159. Moreover, the United States Mint distributes certain newly minted bullion coins—e.g., ordinary Gold Eagles, Silver Eagles, Platinum Eagles, and Palladium Eagles—by selling them only to authorized purchasers who have been carefully vetted and approved by the Mint according to onerous selection criteria.¹ These authorized purchasers are large-scale distributors and market-makers who sell newly minted United States bullion coins to

¹ The Mint also sells special collector versions of these coins directly to the public, but these collector versions are physically distinguishable from the ordinary bullion coins distributed through authorized purchasers, and the Mint sells the collector versions at higher premiums over the precious metal content than dealers typically charge when selling the ordinary bullion coins to investors.

investors or to secondary dealers who then sell to investors. A copy of a United States Mint guide to qualifying as an authorized purchaser of United States bullion coins is attached as Exhibit 3.

160. Federal law does not, however, restrict who may be a secondary dealer. On the contrary, federal law manifests a policy of maximizing the number of bullion dealers:

The Director of the United States Mint shall take all steps necessary to ensure that a maximum number of reputable, reliable, and responsible dealers are qualified to offer for sale all bullion coins struck and issued by the United States Mint.

31 U.S.C. § 5112(p)(4).

161. Likewise, the United States Mint guide mentioned above announces the Mint's policy of making United States bullion coins widely available through a large number of private-sector dealers, even if most of those dealers will need to buy from the relatively small number of authorized purchasers who may buy directly from the Mint:

The United States Mint is interested in ensuring that the coins minted and issued under its gold, platinum, and palladium bullion coin programs are distributed effectively and efficiently and in a manner that ensures that the bullion coins are competitive with bullion products produced by other international mints. To accomplish this goal, the United States Mint seeks to use private sector distribution channels that ensure that the coins are:

- A. As widely available to the public as possible;
- B. Are bought and sold at prices/premiums that are in line with other similar bullion coin products in the marketplace; and
- C. Bought and sold in a manner that ensures relatively low transaction costs.

Due in part to the commodity-like, investment nature of these coins characterized by constantly fluctuating coin prices, the United States Mint has determined that the most effective and efficient means for bullion coin distribution is through the use of the well-established gold, platinum, and palladium bullion coin distribution network in the private sector. This network typically consists of hundreds of coin and precious metal dealers, participating banks, brokerage companies and other financial intermediaries.

Ex. 3 at 3.

162. The United States Mint, acting under Congressional authorizations and mandates, thus manifests a policy of employing a particular multi-tiered private-sector-based distribution scheme for United States bullion coins. The Mint does not sell its ordinary bullion coins—e.g., ordinary Gold Eagles, Silver Eagles, Platinum Eagles, and Palladium Eagles—directly to anybody, except to a small number of carefully-chosen authorized purchasers, but neither the Mint nor federal statute restricts who may be a secondary dealer. Because the authorized purchasers are large-scale dealers who can be counted on to sell to smaller dealers, this distribution scheme harnesses secondary dealers to sell directly to investors—and to make United States bullion coins widely available to investors at low premiums.

163. Chapter 80G contains no exception for sales to or from Treasury-authorized bullion purchasers.

164. Chapter 80G purports to regulate sales to and from Treasury-authorized bullion purchasers.

165. Chapter 80G contains no exception for sales to or from secondary dealers who have purchased bullion from Treasury-authorized bullion purchasers.

166. Chapter 80G purports to regulate secondary dealers who have purchased bullion from Treasury-authorized bullion purchasers.

167. By burdening the purchase and sale of United States bullion coins, ch. 80G's requirements “stan[d] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.” *Barnett Bank*, 517 U.S. at 31 (quoting *Hines v.*

Davidowitz, 312 U.S. 52, 67 (1941)) (alteration in original).

168. In particular, ch. 80G stands as an obstacle to at least two federal policies:

- a. By requiring registration to buy or sell United States bullion coins, ch. 80G opposes Congress’s policy of making those coins freely transferable, a policy that Congress has pursued by conferring legal-tender status on those coins.
- b. By requiring registration to buy or sell United States bullion coins, ch. 80G opposes the federal policy of making United States bullion coins widely available through private-sector dealers, a policy that Congress and the Mint have pursued by not imposing any requirements on secondary bullion dealers.

169. Federal law preempts ch. 80G to the extent that the chapter applies to United States coins—whether coins minted to be used as currency or coins minted to be used as bullion investments.

170. Because ch. 80G is preempted by federal law, injunctive relief should be granted.

Count 6: Federal Preemption—Bullion IRA Investments

171. The plaintiffs incorporate this complaint’s previous paragraphs.

172. Federal law authorizes the purchase in an Individual Retirement Account (an IRA) of United States Gold Eagles, Silver Eagles, Platinum Eagles, and certain other bullion coins. *See* 26 U.S.C. § 408(m)(3) (excepting certain bullion coins from the definition of “collectibles,” which are not allowed in IRAs under 26 U.S.C. § 408(m)(1)); I.R.S. Pub. 590-

A at 34 (explaining the prohibition on investing in collectibles and the exception for certain bullion coins). A marked-up copy of page 34 of I.R.S. Pub. 590-A is attached as Exhibit 4.

173. By allowing Americans to open IRAs, Congress has demonstrated a policy of encouraging Americans to use IRAs to save for retirement.

174. By allowing Americans to buy certain bullion coins in IRAs, Congress has demonstrated a policy of making bullion a permissible IRA investment—itsself part of Congress’s policy of encouraging the use of IRAs to save for retirement.

175. Chapter 80G contains no exception for an IRA owner’s bullion purchases or sales in the IRA.

176. An IRA owner’s bullion purchases and sales in the IRA count toward the registration threshold.

177. If a person is required to register as a dealer, then, under ch. 80G, the person must register to be allowed to buy or sell bullion in the person’s IRA.

178. Likewise, ch. 80G contains no exception for bullion sales to, or bullion purchases from, an IRA owner in the owner’s IRA.

179. Bullion sales to, or bullion purchases from, an IRA owner in the IRA count toward the registration threshold.

180. If a person is required to register as a dealer, then, under ch. 80G, the person must register to be allowed to sell bullion to, or buy bullion from, and IRA owner in the IRA.

181. By burdening the purchase and sale of bullion in IRAs, ch. 80G’s requirements “stan[d] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.” *Barnett Bank*, 517 U.S. at 31 (quoting *Hines v.*

Davidowitz, 312 U.S. 52, 67 (1941)) (alteration in original).

182. Federal law preempts ch. 80G to the extent that the chapter applies to federally authorized bullion purchases in IRAs or to bullion sales in IRAs.

183. Styczinski would like to buy “bullion products or investments in bullion products” in an IRA or other tax-protected retirement account without registering as a bullion dealer, but he is reluctant to do so for fear of violating ch. 80G.

184. Treasure Island Coins would like to do the following things without registering as a bullion dealer, but is reluctant to do them for fear of violating ch. 80G:

- a. Buy “bullion products or investments in bullion products” from Minnesota “consumers” in their IRAs or other tax-protected retirement accounts; and
- b. Sell “bullion products or investments in bullion products” to Minnesota “consumers” in their IRAs or other tax-protected retirement accounts.

185. Members of Numismatist United Legal Defense would like to do the following things without registering as a bullion dealer, but are reluctant to do them for fear of violating ch. 80G:

- a. Buy or sell “bullion products or investments in bullion products” in their own IRAs or other tax-protected retirement accounts;
- b. Buy “bullion products or investments in bullion products” from Minnesota “consumers” in the “consumers[.]” IRAs or other tax-protected retirement accounts; and
- c. Sell “bullion products or investments in bullion products” to Minnesota “consumers” in the “consumers[.]” IRAs or other tax-protected retirement

accounts.

186. Because ch. 80G is preempted by federal law, injunctive relief should be granted.

Demand for Jury Trial

187. The plaintiffs demand a jury trial for all claims triable by jury.

Prayer for Relief

The plaintiffs ask this Court to

1. declare Minn. Stat. ch. 80G unconstitutional and preempted by federal law;
2. grant an injunction under Fed. R. Civ. P. 65 enjoining the defendant from enforcing Minn. Stat. ch. 80G;
3. award the plaintiffs their attorneys' fees and other litigation expenses under 42 U.S.C. § 1988 and the Minnesota Equal Access to Judgment Act, Minn. Stat. §§ 15.471–15.473; and
4. order whatever other relief the Court deems appropriate.

Dated September 22, 2020.

/s/ Erick G. Kaardal

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