

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re:

NORTHWEST TERRITORIAL MINT, LLC,

Debtor.

Case No. 16-11767-CMA

ORDER PURSUANT TO SECTION 105 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 7023 AND 9019 (I) PRELIMINARILY APPROVING SETTLEMENT, (II) CERTIFYING A CLASS OF WARN ACT CLAIMANTS FOR SETTLEMENT PURPOSES ONLY, (III) APPOINTING SETTLEMENT CLASS COUNSEL AND SETTLEMENT CLASS REPRESENTATIVE, (IV) APPROVING FORM AND MANNER OF NOTICE TO SETTLEMENT CLASS MEMBERS OF CLASS CERTIFICATION AND SETTLEMENT, (V) SCHEDULING A FAIRNESS HEARING TO CONSIDER FINAL APPROVAL OF SETTLEMENT, AND (VI) GRANTING RELATED RELIEF

PRELIMINARY ORDER ON JOINT MOTION FOR APPROVAL OF CLASS SETTLEMENT AND RELATED RELIEF- 1
501748660 v7

1 This Matter having come before the Court on the Joint Motion of Mark Calvert (the
2 “Trustee”) on behalf of Northwest Territorial Mint, LLC (the “Debtor”) and Brittany Konkel (for
3 purposes of the Settlement only the “Class Claimant”), on her own behalf and on behalf of others
4 similarly situated, and counsel for the Class Claimant (for purposes of the Settlement only the
5 “Settlement Class Counsel”), pursuant to Section 105 of the Bankruptcy Code and Bankruptcy Rules
6 9019 and 7023 for the entry of an Order: (1) approving the Settlement Agreement (the
7 “Settlement”)¹ pursuant to Bankruptcy Rule 9019; (2) preliminarily approving the Settlement
8 pursuant to Bankruptcy Rule 7023; (3) certifying the Settlement Class for settlement purposes only,
9 including the appointment of Lankenau & Miller, LLP and The Gardner Firm, P.C. as Settlement
10 Class Counsel and Brittany Konkel as Settlement Class Representative; (4) approving the form and
11 manner of notice of the Settlement to the members of the Settlement Class (the “Class Notice”); (5)
12 scheduling a fairness hearing to consider final approval of the Settlement (the “Fairness Hearing”);
13 (6) finally approving the Settlement following the fairness hearing (the “Final Settlement Order”);
14 and (7) granting related relief (the “Joint Motion”), submitted by the Parties; and the Court having
15 considered the Joint Motion and any opposition thereto; and the Court having found that proper and
16 sufficient notice of the Joint Motion has been given and that no further notice of the Joint Motion is
17 required except as set forth herein; and that based on the range of possible outcomes and the cost,
18 delay, and uncertainty associated with further litigation, the Settlement is reasonable and cost-
19 effective, and preliminary approval of the Settlement is warranted and in the best interest of the
20 Estate;
21
22
23

24 **IT IS HEREBY ORDERED THAT:**

25 _____
26 ¹ A copy of the Settlement Agreement is attached to the Joint Motion as Exhibit A. Unless otherwise defined herein, capitalized terms have the meanings provided in the Settlement Agreement.

- 1 1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334.
- 2 2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
- 3 3. The Settlement, as set forth in the Settlement Agreement², is preliminarily approved,
4 subject to final approval at the Fairness Hearing.
- 5 4. The Settlement Class is certified pursuant to Rule 23 of the Federal Rules of Civil
6 Procedure, as applicable through Rule 7023 of the Federal Rules of Bankruptcy Procedure, and is
7 comprised of the individuals on the Settlement Schedule to the Settlement, who were employed by
8 Debtor until terminated without cause on their part, on or about December 29, 2017, or within thirty
9 days of that date, as part of, or as the reasonably expected consequence of, the mass layoff conducted
10 on or about December 29, 2017, and who do not opt-out (the “Settlement Class Members”);
11 provided, however, that such Settlement Class shall be certified for settlement purposes only.
- 12 5. Brittany Konkel is appointed as Settlement Class Representative.
- 13 6. Lankenau & Miller, LLP and The Gardner Firm, P.C. are appointed Settlement Class
14 Counsel pursuant to Civil Rule 23(c)(1)(B).
- 15 7. The Class Notice, substantially in the form annexed hereto, is hereby approved.
- 16 8. Notice to the Settlement Class Members identified in the Settlement Schedule
17 attached to the Settlement Agreement, by first class mail; postage prepaid, at their last known
18 address is reasonable and the best notice practicable notice under the circumstances and constitutes
19 due and sufficient notice to all potential Settlement Class Members in full compliance with the
20 notice requirements of Civil Rule 23 and such mailing shall be made by Settlement Class Counsel
21 within ten (10) business days following entry of this Order.

22
23
24
25 _____
26 ² The Parties have agreed to modify the Settlement Agreement originally filed with the Court to delete the last sentence in paragraph 11.

1 Presented by:

2 K&L GATES LLP

3

4 /s/ Michael J. Gearin

Michael J. Gearin, WSBA #20982

5 David C. Neu, WSBA #33143

Brian T. Peterson, WSBA #42088

6 Attorneys for Mark Calvert, Chapter 11 Trustee

7 THE GARDNER FIRM, P.C.

8 /s/ Mary E. Olsen

Mary E. Olsen, *pro hac vice*

9 182 St. Francis Street, Suite 103

10 Mobile, AL 36602

P: (251) 4348260

11 F: (251) 434-8259

12 LANKENAU & MILLER, LLP

13 Stuart J. Miller, *pro hac vice*

14 132 Nassau Street, Suite 1100

New York, NY 10038

15 P: (212) 581-5005

16 F: (212) 581-2122

17 *Attorneys for Class Claimant*

18

19

20

21

22

23

24

25

26