

**UNITED STATES BANKRUPTCY COURT**  
**WESTERN DISTRICT OF WASHINGTON**

**CHRISTOPHER M. ALSTON**  
Bankruptcy Judge

United States Courthouse  
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November 6, 2018

**Via CM/ECF**

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Re: *In re Northwest Territorial Mint, LLC*; Case No. 16-11767  
Final Hearing on Joint Motion For Approval of Class Action Settlement of WARN Act  
Claims.

Dear Counsel:

The Trustee has noted a hearing on the above matter for November 16, 2018 at 11:00 a.m. At the hearing, the Trustee will ask the Court to approve a settlement of alleged WARN Act claims asserted on behalf of a class of former employees of the debtor, Northwest Territorial Mint, LLC (the “Mint”). The Allocation of Settlement (ECF No. 1847-1 at pp. 16-18) includes Martin J. Colwell, Jason Fleet, and Brenda L. Johnson on the list of former Mint employees scheduled to receive a settlement payment. The Court has concerns about these three former employees.

According to a recently filed letter from Paula and Richard Pehl (ECF No. 1901) (the “Pehl Letter”), Mr. Fleet and Mr. Colwell have been working for a company called Sierra Mint. The Court has evidence suggesting that Sierra Mint has been using dies that are assets of the Mint estate to produce product for Mint customers. See ECF No. 1817-2 at pp. 20-21 (email from Mint employee Jenifer Baker dated July 9, 2018, referring a customer to Marty Colwell at Sierra Mint to reorder a coin “using your existing dies” now produced “from our import vendor”). The Pehl Letter also identifies an email from Ms. Johnson that suggests shortly after the Trustee shut down the Mint’s operations she began working for or with a new company that contacted Mint customers and promised them the same products. See ECF No. 1901 at p. 27 (email from Brenda Johnson to customer dated January 26, 2018, stating the customer’s designs

“are still on file” and the customer can now work with her “under a new company”). Finally, the Monthly Operating Reports show that between August and December 2017, Ms. Johnson received thousands of dollars in payments from the estate denominated stipends or, in one case, reimbursement for move-out expenses. These payments total \$3,500. The Court reviewed the records and was unable to locate any order authorizing or allowing these payments, which appear to be out of the ordinary course and in addition to Ms. Johnson’s regular wages.

Before the Court will approve any settlement that provides for payments to Mr. Colwell, Mr. Fleet, or Ms. Johnson, the Trustee must file the following:

1. A statement under penalty of perjury that he has conducted an investigation and has confirmed that neither Mr. Colwell, Mr. Fleet, or Ms. Johnson have ever used, or have ever worked for or with a company that has ever used, any assets of the bankruptcy estate. In particular, the Trustee must address the alleged use of Mint customer lists, art servers, designs, or dies located in China or anywhere else. The Trustee must also address the emails from the Mint employee in July 2018 referring Mint customers to Sierra Mint to obtain reorders of products from existing dies. If the Trustee is unable to provide confirmation for any of these three former employees, he must state why the former employee should still receive a settlement payment.
2. A copy of the memorandum from Paul Wagner regarding his future plans the Trustee described to the Court in a hearing held on May 4, 2018.
3. A sworn statement identifying every non-wage payment to Ms. Johnson, including the date of each payment and the reason for the payment. The Trustee must also explain why he did not obtain authority from the Court to issue these payments. The Trustee shall also attach copies of any agreements, letter, emails or other communications between himself and Ms. Johnson that relate or refer to these non-wage payments.

The Court looks forward to reviewing this information in advance if the hearing on November 16.

Sincerely,

A handwritten signature in black ink, appearing to read 'CMA', with a long horizontal flourish extending to the right.

Christopher M. Alston  
United States Bankruptcy Judge

## Notice Recipients

District/Off: 0981-2  
Case: 16-11767-CMA

User: erina  
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