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Honorable Christopher M. Alston
Chapter 11
Hearing Location: Seattle, Rm. 7206
Hearing Date: Friday, December 7, 2018
Hearing Time: 9:30 a.m.
Response Date: November 30, 2018

6 UNITED STATES BANKRUPTCY COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 In re:
10 NORTHWEST TERRITORIAL MINT, LLC,
11 Debtor.

Case No. 16-11767-CMA

TRUSTEE'S REPLY IN SUPPORT OF
MOTION FOR ORDER (1) ALLOWING
AND DISALLOWING ADMINISTRATIVE
EXPENSE CLAIMS; AND (2) APPROVING
DISTRIBUTIONS ON ADMINISTRATIVE
EXPENSE CLAIMS

14 **I. REPLY**

15 Mark Calvert (the "Trustee"), Chapter 11 Trustee of Northwest Territorial Mint, LLC
16 ("NWTM" or the "Debtor"), files this reply in support of his motion (the "Motion") (Dkt. No. 1920)
17 for order (1) allowing and disallowing administrative expense claims; and (2) approving
18 distributions on administrative expense claims.

19 The Trustee has reached agreement regarding Michael White's allowed administrative claim.
20 Mr. White and the Trustee have agreed to a payment to Mr. White of \$35,000 in resolution of his
21 administrative claim, filed in the amount of \$86,874.15, and Mr. White will retain his membership in
22 the WARN Act class and rights of distribution from that class settlement. The White claims
23 resolution is more fully described in the Supplemental Declaration of Mark Calvert in Support of
24 Motion for Order (1) Allowing and Disallowing Administrative Expense Claims; and (2) Fixing
25 Distributions on Allowed Administrative Claims.

26 REPLY IN SUPPORT OF MOTION FOR ORDER (1)
ALLOWING AND DISALLOWING ADMINISTRATIVE
EXPENSE CLAIMS; AND (2) APPROVING
DISTRIBUTIONS ON ADMINISTRATIVE EXPENSE
CLAIMS - 1

501980647 v5

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1 The only filed response to the Motion was *G.Ra.Co. Awards Manufacturing, LP and RETT,*
2 *LP's Response to the Trustee's Motion to Approve and Disallow Cost of Administration Claims*
3 (Dkt. No. 1937) (the "Response"). The Response claims that RETT, LP ("RETT") is entitled to an
4 administrative expense claim in the amount of \$112,088.29, and that G.Ra.Co. Awards
5 Manufacturing, LP ("Graco Awards") is entitled to a breakup fee in an amount between \$25,000 and
6 \$58,111.14. RETT argued that it is entitled to an administrative expense claim on account of the
7 following categories of damages: (i) environmental damages incurred during the postpetition
8 occupancy of the leased premises and during the Debtor's vacation of the leased space; (ii)
9 additional damages to the building during the move-out process; and (iii) damages on account of the
10 fact that RETT could not lease the premises during the cleanup, repair, and remediation process.

11 The Declaration of Tom Tucker filed in support of the Response identifies a total of
12 \$22,913.97 in costs incurred related to environmental testing, remediation and related clean-up of the
13 premises; \$46,466.44 in repair costs for building damage; and \$36,677 in damages as a result of the
14 fact that it could not re-let the premises. Mr. Tucker provided evidence of damages by attaching
15 copies of various invoices and checks. Graco Awards previously provided evidence in support of its
16 breakup fee claim in the form of billing invoices. Graco Awards substantiated that it incurred
17 \$5,920.64 in out-of-pocket expenses in connection with its role as a stalking-horse bidder in the sale
18 of the Tomball assets. *See* Dkt. No. 480.

19 In the Motion, the Trustee proposed to allow an administrative claim in favor of RETT in the
20 amount of \$14,414.22 to be paid 40 cents on the dollar. After submission of the Response and the
21 additional documentation substantiating out-of-pocket expenses incurred by RETT, the parties
22 engaged in discussions regarding resolution of the objection of RETT and Graco Awards. The
23 parties have agreed to the following resolution of the administrative claims asserted by RETT and
24 Graco Awards: (i) RETT shall be entitled to an allowed administrative expense claim of \$33,926.97
25 to be paid at the rate of 40%, and shall be entitled to an assignment of any right of the estate to

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REPLY IN SUPPORT OF MOTION FOR ORDER (1)
ALLOWING AND DISALLOWING ADMINISTRATIVE
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CLAIMS - 2
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1 pursue its insurance carrier for flood damages caused to the Tomball premises without any other
2 recourse to the estate; and (ii) Graco Awards shall be allowed an administrative claim in the amount
3 of \$5,920.64 (the amount of its substantiated breakup fee out of pocket expenses) to be paid at the
4 rate of 40%.

5 The agreed resolution of the claims is reasonable, and in the best interests of the estate in
6 light of the out-of-pocket damages documented by RETT, LP regarding its clean-up, repair, and
7 environmental remediation of the property. In negotiating the resolution, the Trustee withdrew his
8 proposal to allow RETT, LP a claim for real estate taxes because the Trustee's review of records
9 disclosed that the Debtor had overpaid real estate taxes for 2015. The agreed-upon resolution
10 accounts for the late fee, and prorated insurance (in the approximate combined amount of \$11,000)
11 the Trustee originally proposed to pay in the Motion. It also accounts for the additional
12 approximately \$22,000 for damages incurred to the Tomball premises during the postpetition, pre-
13 rejection period of the estate's occupancy, including environmental damages for which the estate
14 could be liable absent RETT's remediation efforts.

15 II. CONCLUSION

16 The Trustee asks that the Court enter an order granting the Motion, modified to reflect the
17 agreed resolutions of the administrative claims asserted by Michael White, RETT, LP, and Graco
18 Awards as described herein.

19 Dated this 4th day of December, 2018.

20 K&L GATES LLP

21 By /s/ Brian Peterson

22 Michael J. Gearin, WSBA #20982

23 David C. Neu, WSBA #33143

24 Brian T. Peterson, WSBA #42088

25 Attorneys for Mark Calvert, Chapter 11 Trustee

26 REPLY IN SUPPORT OF MOTION FOR ORDER (1)
ALLOWING AND DISALLOWING ADMINISTRATIVE
EXPENSE CLAIMS; AND (2) APPROVING
DISTRIBUTIONS ON ADMINISTRATIVE EXPENSE
CLAIMS - 3

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CERTIFICATE OF SERVICE

The undersigned declares as follows:

That she is a Paralegal in the law firm of K&L Gates LLP, and on December 4, 2018, she caused the foregoing document to be filed electronically through the CM/ECF system which caused Registered Participants to be served by electronic means, as fully reflected on the Notice of Electronic Filing.

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

Executed on the 4th day of December, 2018 at Seattle, Washington.

/s/ Denise A. Lentz
Denise A. Lentz