

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re:
NORTHWEST TERRITORIAL MINT,
LLC
Debtor

Case No. 16-11767-CMA
Chapter 11

**DECLARATION OF BILL ATALLA IN
RESPONSE TO APPLICATIONS FOR
COMPENSATION**

Bill Atalla hereby declares under penalty of perjury as follows:

1. At the hearing on December 7, 2018, the question of the remaining physical inventory of NTWM (the so-called "store inventory") came up, and the Court asked the trustee and counsel to comment on it.

2. I am the former CEO of NTWM, hired by trustee Calvert. I have made a proposal to purchase the intellectual property assets of NTWM, which includes an offer to take the store inventory on consignment for a 1/3rd commission. The original offer was made on January 15, 2019. The offer for a consignment agreement was added later, and transmitted to counsel for the trustee at approximately 2:37 PM on January 18, 2019. These offers are attached as Exhibit A and B.

3. I first attempted to engage in discussions with the trustee about purchasing the intellectual property assets in December 2018. I inquired of the trustee about the status of NTWM Amazon account and the military exchange accounts, and the revenues flowing from those websites. I asked why Sierra Mint (the company started by former Mint president Paul Wagner) had NTWM products on its website. Instead of a response, as a condition of further negotiations, I was given a proposed non-disclosure agreement

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DECLARATION of BILL ATALLA - 1

1 that was overbroad and unacceptable. It would have, for instance, prevented me from
2 submitting this declaration.

3 4. To date, neither the trustee nor counsel has responded to my offer.

4 5. In their supplemental submissions in support of their applications for
5 compensation, made at approximately 7 PM on January 18, 2019, the trustee, apparently
6 for the first time, mentions a proposed consignment agreement with Sierra Mint. See the
7 Calvert declaration, Docket 1982 at page 3 paragraph 5 and page 7 paragraph 12:

8 As discussed above, I have engaged in discussions with Sierra Mint
9 regarding the consignment of what we call the "store inventory". I intend
10 to file a motion to approve that proposed consignment agreement with the
11 Court. There has been a draft of the consignment agreement
12 communicated by Mr. Wagner that I have considered and that I have
13 requested that my counsel review.

12 6. The "consignment agreement" itself is attached as Exhibit I to the Gearin
13 declaration, Docket 1980-1 at page 35. It purports to be dated July 5, 2018. It lacks the
14 one critical term of any consignment agreement, namely the percentage commission to
15 the consignee. Mr. Gearan's declaration, Docket 1980 at page 7, paragraph 20, states that
16 the proposal was made in August 2018, and that the trustee remains engaged in
17 discussions with Sierra Mint.

18 7. However, there is scant evidence of this in the time records of either the trustee
19 or counsel. There is no reference to any discussions of consignment in the trustee's time
20 records. The closest reference is an August 8, 2018 discussion between the trustee and
21 Paul Wagner regarding the "remaining silver". Docket 1982-2 at B-22. Nor is there any
22 time entry relating to discussions with Mr. Wagner and Sierra Mint regarding a
23 consignment agreement or the store inventory in any of the time records submitted by
24 K&L Gates, Docket 1980, Exhibit A.

25 8. On the contrary, the trustee has previously advised the court that Mr. Wagner

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28 DECLARATION of BILL ATALLA - 2

1 is not interested in taking any of the existing inventory of NTWM. At the hearing on
2 May 4, 2018, the trustee reported to the court that Mr. Wagner had no interest in selling
3 or taking on any of NTWM assets. Indeed, the memorandum from Mr. Wagner to the
4 trustee, attached as Exhibit C to the trustee's November 14, 2018 declaration (Docket
5 1915), expressly disavows any interest in selling NTWM's existing inventory.

6 9. At the same time, there are certain facts which appear to indicate that Sierra
7 Mint has been profiting from NTWM assets over the past year. The NTWM Amazon
8 seller account now lists its customer service number as 775-442-4254, which is the phone
9 number of Sierra Mint. There is an absolutely striking identity between items listed on
10 the Sierra Mint product page and NTWM products. I do not see where any revenues
11 derived from the Amazon or military exchange websites has been recorded in the
12 trustee's operating reports over the past year.

13 10. All this leads me to conclude that the trustee has turned a blind eye to Sierra
14 Mint's exploitation of NTWM's intellectual property and web traffic, and has now
15 propounded this consignment agreement as a way of covering his tracks, enabling him
16 to claim that Sierra Mint's conduct was part of the deal all along.

17 11. I do not believe that Paul Wagner and Sierra Mint will be reliable consignees
18 of NTWM's remaining inventory, not least because they appear to have already diverted
19 NTWM's web traffic to their own benefit, without any accounting.

20 Dated: 1/23, 2019

21
22 /s/ BillAtalla

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28 DECLARATION of BILL ATALLA - 3

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Exhibit A

DONALD A. BAILEY

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January 15, 2019

Mark Calvert
Cascade Capital Group
1501 4th Avenue, suite 2840
Seattle WA 98101

Re: Northwest Territorial Mint
W.D. WA Bankr. 16-11767-CMA

Dear Mark:

This is an offer by Bill Atalla to purchase the intellectual property assets (listed below) of Northwest Territorial Mint (“NWTM”) for the sum of \$10,000.00 payable to the bankruptcy estate, plus a dividend to the unsecured creditors of NWTM, described below.

The intellectual property assets which are the subject of this offer (the “IP Assets”) are as follows:

1. NWTM customer list (domestic and import),
2. All NWTM trademarks and copyrights,
3. The NWTM name and brand,
4. All NWTM art and design files,
5. The NWTM Amazon website,
6. The nwtmint.com domain and all other NWTM derivative websites (which we understand to number 19),
7. Any Chinese dies that can be used with permission from the customer,
8. All rights to Military Exchanges which sell NWTM products, and

Mark Calvert
January 15, 2019
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9. Any other intellectual property rights owned by the bankruptcy estate related to the foregoing.

Bill Atalla intends to create a new operating company to own and use the IP Assets. In addition to the \$10,000 cash payment to the bankruptcy estate, Mr Atalla will cause the new operating company to pay to the unsecured creditors of the NTWM bankruptcy estate, pro rata based on the amounts of their allowed claims, 10% of the annual net sales of the new operating company for the three years following purchase of the IP Assets. Net sales will be measured by gross sales less costs of goods sold.

The sale would be subject to Bankruptcy Court approval, but would otherwise be "as is, where is", without warranty of title, merchantability or fitness for a particular purpose. Bill Atalla recognizes that you, as trustee, can only sell the rights the bankruptcy estate holds. In making this offer, Bill has done his own investigation of the IP Assets, and is not relying on any representation made by you or any other representative of the estate.

You have previously indicated, in court filings and elsewhere, that these assets have minimal or no value to the bankruptcy estate, and would otherwise be abandoned on the closing of the bankruptcy case. Therefore, Bill believes this offer provides a benefit to the estate with no corresponding risk or exposure to the estate.

We look forward to putting this deal together expeditiously.

Very truly yours,

A handwritten signature in black ink, appearing to read "Donald A Bailey". The signature is stylized and cursive.

Donald A Bailey

cc: Michael Gearin
David Neu
Mark Northrup

DONALD A. BAILEY

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Exhibit B

January 18, 2019

Mark Calvert
Cascade Capital Group
1501 4th Avenue, suite 2840
Seattle WA 98101

Re: Northwest Territorial Mint
W.D. WA Bankr. 16-11767-CMA

Enhanced Offer

Dear Mark:

This is a revision of the offer I transmitted to you on January 15 on behalf of Bill Atalla.

In addition to purchasing the IP Assets on the terms described in my January 15 letter, the new company to be created by Mr Atalla will take the existing "store inventory" on consignment, and sell it on behalf of the bankruptcy estate. The consignment commission would be one-third of net sales, defined as gross sales less costs of shipping and handling and any associated sales taxes. The remaining two-thirds of the sales revenues would be disbursed to you on behalf of the bankruptcy estate, or to whomever you or the Bankruptcy Court directs.

It is Bill Atalla's hope that this enhancement of his offer would allow the NWTM estate to be closed up expeditiously.

Very truly yours,



Donald A Bailey

cc: Michael Gearin
David Neu
Mark Northrup