

The Honorable Christopher M. Alston  
Chapter 11  
Location: Courtroom 7206, Seattle  
Hearing Date: May 26, 2016  
Hearing Time: 1:30 p.m.  
Response Date: May 23, 2016

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re:

NORTHWEST TERRITORIAL MINT LLC,  
  
Debtor.

Case No. 16-11767- CMA

OBJECTION OF HARRIS COUNTY,  
TEXAS TO TRUSTEE'S MOTION FOR  
ORDER APPROVING THE SALE OF THE  
DEBTOR'S TOMBALL, TEXAS ASSETS  
FREE AND CLEAR OF ALL LIENS,  
CLAIMS, INTERESTS

Harris County, Texas, a secured creditor of the debtor, files this objection to the Trustee's *Motion for Order Approving the Sale of the Debtor's Tomball, Texas Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances; Approving the Assumption and Assignment of Certain of the Debtor's Executory Contracts; and Granting Other Related Relief* (the "Motion") and respectfully represents:

1. Harris County is a fully secured *ad valorem* tax creditor of the debtor, holding prior perfected liens against property of the Estate. A true and correct copy of the County's filed proof of claim for \$34,987.95 is attached. Harris County's claim is secured by first priority liens pursuant to the Texas Property Tax Code § 32.01, *et seq.*

2. Section 32.01 provides:

(a) On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on the property, whether or

HARRIS COUNTY, TEXAS OBJECTION  
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1 not the taxes are imposed in the year the lien attaches. The  
2 lien exists in favor of each taxing unit having power to tax the  
3 property.

4 (b) A tax lien on inventory, furniture, equipment and other  
5 personal property is a lien in solido and attaches to inventory,  
6 furniture, equipment, and other personal property that the  
7 property owner owns on January 1 of the year the lien  
8 attaches or that the property owner subsequently acquires.

9 . . . .

10 (d) The lien under this section is perfected on attachment  
11 and . . . perfection requires no further action by the taxing  
12 unit.

13 TEX. PROP. TAX CODE § 32.01(a)-(b), (d).

14 3. Further, pursuant to section 32.05 (b) of the Texas Property Tax Code,  
15 Harris County's liens are superior to the claims of creditors of the property's owners and to  
16 claims of persons holding liens on the property. Section 32.05(b) provides that:

17 [A] tax lien provided by this chapter takes priority over the  
18 claims of any creditor of a person whose property is  
19 encumbered by the lien and over the claim of any holder of a  
20 lien on property encumbered by the tax lien, whether or not  
21 the debt or lien existed before the attachment of the tax lien.

22 TEX. PROP. TAX CODE § 32.05(b); *see also Central Appraisal District of Taylor County v.*  
23 *Dixie-Rose Jewels, Inc.*, 894 S.W.2d 841 (Tex. App. – Eastland 1995, no writ) (bank's  
24 foreclosure of its purchase money lien on personal property did not defeat or destroy the  
25 taxing unit's statutory tax lien). The tax lien arises on January 1 of each tax year and "floats"  
26 to after acquired property. *See City of Dallas v. Cornerstone Bank*, 879 S.W. 2d 264 (Tex.  
App. - Dallas 1994). The tax lien is a lien *in solido* and is a lien on all personal property of  
the debtor. *See In re Universal Seismic*, 288 F.3d 205 (5th Cir. 2002). The tax lien is also  
unavoidable. *See In re: Winns*, 177 B.R. 253 (Bankr. W.D. Tex. 1995).

HARRIS COUNTY, TEXAS OBJECTION  
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**OBJECTION**

4. Harris County does not object to the sale itself but does object to the sale of the Assets free and clear of the County’s 2016 tax liens. Since the 2016 taxes are not due until January 31, 2017, Harris County requests that the sale of the Assets be made subject to the County’s 2016 tax liens. Unless the liens for the 2016 taxes are expressly retained, it may prove impossible for Harris County to collect the 2016 taxes if they should become delinquent subsequent to January 31, 2017.

5. The inclusion of the following language in the order authorizing the sale would be adequate to enable Harris County to withdraw its objection to the Motion:

**The ad valorem tax liens of Harris County for the 2016 tax year are hereby expressly retained against the Assets until payment is made to fully satisfy the 2016 ad valorem taxes, and any penalties or interest that may ultimately accrue to those 2016 taxes.**

In conclusion, Harris County respectfully requests that this Court approve the sale of the assets but find that the sale is not free and clear of the 2016 ad valorem tax liens and that it grant Harris County such other and further relief, at law or in equity, as is just.

DATED this 23rd day of May, 2016.

Sarah Weaver, PLLC



Sarah Weaver  
WSBA 12158

LINEBARGER GOGGAN  
BLAIR & SAMPSON, LLP

/s/ John P. Dillman

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Texas State Bar No. 05874400

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*Counsel for Harris County*

**CERTIFICATE OF SERVICE**

The undersigned declares that on May 23, 2016, 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 reflected on the Notice of Electronic Filing.



HARRIS COUNTY, TEXAS OBJECTION  
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