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Honorable Christopher M. Alston
Chapter 11

8 UNITED STATES BANKRUPTCY COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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

Case No. 16-11767-CMA
DECLARATION OF DAVID C. NEU
REGARDING DEBTOR IN
POSSESSION FINANCING

13 I, David C. Neu, hereby declare as follows:

14 1. I am a partner in the law firm of K&L Gates LLP (“K&L Gates”) and am duly
15 authorized to practice law in this Court. I submit this declaration in support of the proposed
16 Final Order Granting Trustee’s Motion for Authority to Enter into Post-Petition Financing
17 Agreement Pursuant to 11 U.S.C. §364 (“Final Order”). I am competent in all ways to testify and
18 I have personal knowledge of the facts set forth herein.

19 2. The Court held a hearing on June 2, 2017 (the “Interim Hearing”), on the Chapter
20 11 Trustee’s Motion for Authority to Enter Into Post-Petition Financing Agreement Pursuant to
21 11 U.S.C. §364 (Dkt. 1034). At the Interim Hearing, the Court identified certain Guidelines for
22 Financing Stipulations (“Local Bankruptcy Rules Appendix A”), which it believed need be
23 identified and justified in the Final Order.

24 3. The Credit Agreement which the Trustee seeks to have approved on a final basis
25 complies with Local Bankruptcy Rules Appendix A, except as set forth herein.

1 4. Guideline 6. Section 5(i) of the Credit Agreement, as approved on an interim
2 basis, provides that the Trustee will not “at any time, permit any lien, security interest or
3 encumbrance to be created upon any of its accounts receivable and/or its inventory without prior
4 written consent” of the Lender. At the Interim Hearing, the Court expressed that such a
5 provision may not comply with Guideline 6 of Local Bankruptcy Rules Appendix A. As
6 discussed more fully in the Declaration of Mark Calvert filed concurrently, the Trustee does not
7 believe this provision will have a practical effect on his ability to propose and confirm a plan.
8 Prestige Capital Corporation (“Prestige”) has agreed to a modification of this provision to
9 remove the prohibition on the Trustee pledging or encumbering inventory. The prohibition on
10 pledging an interest or lien in accounts receivable is a necessary component of a factoring
11 agreement. Under the Credit Agreement, Prestige is purchasing the Northwest Territorial Mint
12 LLC’s (the “Mint”) accounts receivable. Setting aside any issues related to whether the
13 arrangement is a disguised secured transaction or true sale, the nature of the agreement means
14 Trustee has little practical ability to grant a third party interest in or otherwise encumber
15 accounts receivable.

16 5. Guideline (p). Under the terms of the Credit Agreement, at paragraph 16, Prestige
17 is appointed as the Mint’s attorney in fact with certain powers, including the power to sue for and
18 collect any assigned accounts receivable, using the Mint’s name. Such provisions are common
19 in factoring arrangements given the nature of the transaction and arguments that may arise as to
20 whether the factor owns a receivable or merely is a secured creditor. As set forth in the Calvert
21 Decl., the Trustee does not believe the provision to be problematic from a business perspective,
22 and believes it to be reasonable under the circumstances.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 7th day of June, 2017, at Seattle, Washington.

/s/ David C. Neu
David C. Neu

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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 June 7, 2017, 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.

Also on June 7, 2017, she caused the foregoing document to be placed in the mail to the Parties at the addresses listed below:

Northwest Territorial Mint LLC
c/o Ross Hansen, Member
P.O. Box 2148
Auburn, WA 98071-2148

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 7th day of June, 2017 at Seattle, Washington.

/s/ Denise A. Lentz
Denise A. Lentz