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Honorable Christopher M. Alston
Chapter 11
Hearing Location: Seattle, Rm. 7206
Hearing Date: September 1, 2017
Hearing Time: 9:30 a.m.
Response Date: August 25, 2017

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

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

Case No. 16-11767-CMA

TRUSTEE'S SECOND MOTION FOR ORDER
GRANTING AUTHORITY TO RETURN
STORED INVENTORY TO CUSTOMERS

13
14 Mark Calvert (the "Trustee"), Chapter 11 Trustee for Northwest Territorial Mint, LLC
15 ("NWTM" or the "Debtor"), submits this Motion to the Court, which requests entry of an order
16 granting authority to return stored inventory, coining dies and orders to customers returned to
17 NWTM as undeliverable. In support of the Motion, the Trustee respectfully states as follows:

18 **BACKGROUND**

19 On April 1, 2016, the Debtor commenced this case by filing a voluntary petition under
20 chapter 11 of the United States Bankruptcy Code. On April 11, 2016, an order was entered
21 appointing Mark Calvert as chapter 11 Trustee. *See* Dkt. No. 51.

22 Upon his appointment, the Trustee took control over the business operations of the Debtor
23 and initiated his investigation of the financial affairs of the bankruptcy estate. The Debtor's business
24 is primarily comprised of (a) the sale of precious metals, such as gold, silver and platinum; and (b)
25 the minting of medallions, coins and other awards. Upon his appointment, the Trustee learned that
26 certain customers of the Debtor stored gold, silver or other precious metals at the Debtor's facilities

SECOND MOTION FOR ORDER GRANTING
AUTHORITY TO RETURN STORED INVENTORY TO
CUSTOMERS - 1
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1 (the “Storage Customers”). The Trustee conducted a detailed inventory of stored gold, silver and
2 precious metals in the Debtor’s possession.

3 On June 28, 2016 the Trustee filed his initial Motion for Order Granting Authority to Return
4 Stored Inventory, Other Customer Owned Inventory and Coining Dies (the “Initial Stored Inventory
5 Motion”) (Dkt. 457). Pursuant to the Initial Stored Inventory Motion, the Trustee sought authority to
6 return approximately \$1.1 million in gold and other precious metals that he was able to specifically
7 identify as belonging to a Storage Customer. On September 21, 2016, the Court entered an order
8 granting the Initial Stored Inventory Motion (the “Initial Return Order”) (Dkt. 728).

9 Subsequent to entry of the Initial Return Order, the Trustee has been able to identify
10 additional gold, silver, or other precious metals to a specific Storage Customer or as having been
11 purchased by a specific customer of NWTM (collectively, the “Customer Owned Inventory”), as
12 follows:

13 A. Arnold Abrams. The Trustee located two 100 oz. Pan American silver bars identified
14 as belonging to Arnold Abrams. The bars were located during the initial inventory conducted by the
15 Trustee, but were omitted from the Initial Stored Inventory Motion as the Trustee attempted to make
16 contact with Mr. Abrams who did not file a proof of claim. The bars were found in safe 2, shelf 2 in
17 NWTM’s Auburn, WA, facility, and were labeled with a post-it note with Mr. Abrams’ name. As
18 detailed in the Declaration of Erin Shear in Support of the Trustee’s Second Motion for Order
19 Granting Authority to Return Stored Inventory to Customers, the NWTM business records confirm
20 that Mr. Abrams purchased 2 - 100 oz. silver bars which were placed into storage. The business
21 records further confirm that Mr. Abrams sold 1 - 100 oz. silver bar from his storage account on
22 February 7, 2011 - leaving 1 - 100 oz. silver bar in Mr. Abrams’ storage account. A picture of the
23 silver bars is attached to the Declaration of Jody Cannady as Exhibit A.

24 B. Randy & Diane Wong. As detailed in the Initial Stored Inventory Motion, the
25 supporting Second Supplemental Declaration of Erin Shear [Dkt. 681] and supporting Supplemental
26 Declaration of Jody Cannady [Dkt. No. 629], the Trustee, at that time, had identified 3,990 oz. of

1 silver stored for the Wongs. This silver was returned to the Wongs after entry of the Initial Return
2 Order. Per the proof of claim filed by the Wongs [Claim No. 3081], NWTM stored, among other
3 metals, 1,480 - 1 oz. silver American Eagles on their behalf, including two “monster boxes,” each of
4 which each contained 500 - 1 oz. Silver American Eagles. Pursuant to the Initial Return Motion, the
5 Trustee, at that time, had located 980 of the Wong’s 1 oz. Silver American Eagles - one “monster
6 box” plus 480 additional 1 oz. Silver American Eagles. These 980 1 oz. Silver American Eagles
7 were returned to the Wongs. Accordingly, after the initial return was made to the Wongs, they were
8 still missing one “monster box” of 500 - 1 oz. Silver American Eagles, among other precious metal.¹

9 Subsequent to the initial inventory, the Trustee discovered a “monster box” labeled “Wong”
10 which contained an additional 500 - 1 oz. Silver American Eagles. As shown in the photograph
11 appended to the Shear Declaration, the monster box was sealed in a separate cardboard box clearly
12 labeled with the Wong’s name.

13 C. Steve McAllister. The Trustee located a sterling silver “Centennial Car Ingot
14 Collection Set” minted by Franklin Mint (the “Car Ingot Set”) which appears to belong to Steve
15 McAllister. The Car Ingot Set was located on the top shelf of the rear right of NWTM’s vault in
16 Dayton, Nevada. It was not originally identified to a customer, as Christine Unwin, the individual
17 conducting the inventory in Nevada, was told by one of the employees that Ross Hansen had
18 informed him that the area in the vault where the Car Ingot Set was located “belonged to him
19 (Ross)” and that the employee “was not to inventory it”. Accordingly, while the items in this section
20 were inventoried and secured, there was not an effort made to identify them to a customer until after
21 Mr. Hansen testified in supplemental proceedings that he was “broke.”

22 Appended to the proof of claim filed by Mr. McAllister [Claim No. 2070] is a copy of a
23 sales ticket, with notes from Ross Hansen, stating that a “Franklin Mint Car Set” was “received on
24 account” from Steve McAllister. The Trustee’s attorney spoke with Mr. McAllister in an effort to

25 ¹ Per their proof of claim, the Wongs are also missing 10 100 oz. Pan American silver bars, 14 Gold
26 American Eagle coins, 215 10 oz. Pan American silver bars, 128 5 oz. Pan American silver bars, and
760 1 oz. Pan American silver bars.

1 determine whether the Car Ingot Set belongs to him. Per Mr. McAllister, he provided NWTM a set
2 of “silver car ingots” to sell on his behalf, with a promise from Ross Hansen that he would time the
3 sale to generate the best return for Mr. McAllister. Mr. McAllister was never informed if the Car
4 Ingot Set had been sold, and, in fact, he was told by Ross Hansen in 2015 that it remained unsold.
5 Mr. McAllister was able to accurately describe the Car Ingot Set to the Trustee’s counsel as being in
6 a wooden box with sliding trays, secured by “cloth straps.” The Trustee is confident that the Car
7 Ingot Set belongs to Mr. McAllister for two reasons. First, NWTM did not regularly sell items such
8 as the Car Ingot Set, making it improbable that the set on hand is anything other than the one
9 provided by Mr. McAllister. Second, Mr. McAllister accurately described the Car Ingot Set.

10 D. Richard and Paula Pehl. The Trustee located two 100 oz. bars (the “Pehl Bars”)
11 which have been identified as owned by Richard and Paula Pehl. The Pehl Bars were located during
12 the Trustee’s initial inventory of the Dayton, Nevada, facility conducted on April 11 and 12, 2016.
13 During this initial inventory, precious metals were secured in the facility’s vault which was newly
14 rekeyed. Each item was photographed, documented, and given a vault location number. The Pehl
15 Bars were located on a shelf in the lower right center of the vault, along with a receipt identifying
16 them to “Dr. and Mrs. Richard Pehl.” A photograph of the Pehl Bars and receipt is attached to the
17 Declaration of Christine Unwin. The proof of claim filed by the Pehls [Claim No. 2706-1] contains a
18 list of precious metal that should have been held by NWTM on behalf of the Pehls. Included in the
19 list are two silver bars which were delivered by the Pehls on May 14, 2015 - an Englehard 100-oz
20 bar and an Academy 100-oz bar. The receipt found with the Pehl Bars appears to be a carbon copy
21 of the receipt that was attached to the proof of claim filed by the Pehls.

22 E. Harold “Henri” Klingler. The Trustee located 392 silver confederate rounds in
23 NWTM’s Auburn, WA facility that belong to Henri Klingler (the “Klingler Rounds”). The Trustee
24 was able to identify ownership because, as shown by NWTM’s records, the pressing of the Klingler
25 Rounds was a custom minting job, and NWTM salesman Marty Colwell sold the custom coining
26 dies for these coins to Mr. Klingler in 2002. At the time, Mr. Klingler requisitioned 15,300 1 oz.

1 coins consisting of 15,000 “business strike” coins, 300 “silver proof coins” and 100 silver proof
2 coins with selective gold plating. Periodically, Mr. Klingler would contact NWTM and have some
3 of the Klingler Rounds shipped to him. NWTM’s records confirm that between 2002 and 2009 at
4 least 12,550 Klingler Rounds were shipped. Unfortunately, because the shipping records pre-dating
5 2009 were kept as paper records, there is the possibility that shipping records are missing.
6 Nonetheless, because the Klingler Rounds were minted from custom dies owned by Mr. Klingler,
7 the Trustee has a high level of confidence that they are part of his order.

8 Mr. Klingler passed away in November, 2015. The Trustee has been in contact with his
9 widow, Janet Klingler, and has requested documentation establishing her as Mr. Klingler’s heir.
10 Upon verification, the Trustee seeks authority to release the Klingler Rounds to Mrs. Klingler.

11 **EVIDENCE RELIED UPON**

12 This Motion relies on the arguments set forth herein, the Declarations of Jody Cannady, Erin
13 Shear, Marty Colwell, Christine Unwin, David C. Neu and Steve McAllister filed in support of the
14 Motion, the pleadings and records on file in this case, and the arguments of counsel, if any.

15 **ARGUMENT**

16 The evidence is clear that the Customer Owed Inventory was being held by NWTM estate on
17 behalf of the specific owners identified herein and that the estate does not hold a legal or equitable
18 interest in the Customer-Owned Inventory. Accordingly, there is no reason for the individuals
19 identified above to be deprived of their rightful property.

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CONCLUSION

For the foregoing reasons, the Trustee respectfully request that the Court enter an order in the form proposed by the Trustee granting the Trustee authority to return property to individual owners as provided for in this motion, and for such other relief as the Court deems appropriate under the circumstances.

DATED this 7th day of August, 2017.

K&L GATES LLP

By /s/ David C. Neu
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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re:

NORTHWEST TERRITORIAL MINT, LLC,

Case No. 16-11767-CMA

ORDER GRANTING SECOND
MOTION FOR AUTHORITY TO
RETURN STORED INVENTORY TO
CUSTOMERS

This matter came before the Court on the Chapter 11 Trustee’s Second Motion for Order Granting Authority to Return Stored Inventory to Customers (the “Motion”); the Court having considered the Motion, the accompanying Declarations in support of the Motion, responses, the arguments of counsel, and the pleadings and papers herein, **THE COURT HEREBY FINDS** that notice of the Motion was sufficient, and that good cause exists for the relief requested in the Motion.

Now therefore, it is **HEREBY ORDERED AS FOLLOWS:**

1. The Motion is GRANTED;
2. The Trustee may return to Arnold Abrams 1 - 100 oz. Pan American silver bar;
3. The Trustee may return to Randy and Diane Wong one “monster box” of 500 1 oz.

ORDER GRANTING SECOND MOTION FOR
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1 Silver American Eagles;

2 4. The Trustee may return to Steve McAllister the Car Ingot Set;

3 5. The Trustee may return to Richard and Paula Pehl an Englehard 100-oz bar and an
4 Academy 100-oz bar; and

5 6. The Trustee may return, upon verification establishing the she is the legal heir of
6 Harold "Henri" Klingler, the Klingler Rounds to Janet Klingler.

7
8 ///END OF ORDER///
9

10 Presented by:

11 K&L GATES LLP

12
13 /s/ David C. Neu

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16 Brian T. Peterson, WSBA #42088

17 Attorneys for Mark Calvert, Chapter 11 Trustee
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