

1 Michael J. Gearin, WSBA # 20982
2 David C. Neu, WSBA # 33143
3 Brian T. Peterson, WSBA # 42088
4 K&L GATES LLP
5 925 Fourth Avenue, Suite 2900
6 Seattle, WA 98104-1158
7 (206) 623-7580

Honorable Christopher M. Alston
Chapter 11
Hearing Location: Seattle, Rm. 7206
Hearing Date: May 4, 2018
Hearing Time: 9:30 a.m.
Response Date: April 27, 2018

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

11 In re:

12 NORTHWEST TERRITORIAL MINT,
13 LLC,

Debtor.

Case No. 16-11767-CMA

TRUSTEE'S REPLY IN SUPPORT OF MOTION
TO CONVERT CASE FROM CHAPTER 11 TO
CHAPTER 7

14 **I. REPLY**

15 Mark Calvert (the "Trustee"), Chapter 11 Trustee for consolidated estates of Medallion Art
16 Company, LLC and Northwest Territorial Mint, LLC (collectively "NWTM" or the "Debtor"), files
17 this reply in support of his motion, pursuant to 11 U.S.C. § 1112(b)(1), for an order converting this
18 case to a case under Chapter 7 of the Bankruptcy Code (the "Motion"). The Trustee has established
19 that "cause" exists to convert the case to one under chapter 7 of the Code. There is no longer any
20 possibility of reorganization in this case. There is no practical purpose to filing a plan and incurring
21 the attendant administrative costs for a chapter 11 plan process. *See* 11 U.S.C. § 1112(b)(4)(A).

22 Of the thousands of creditors in the case, only a few individuals have filed responses to the
23 Motion. Three of the responding parties support conversion. Four creditors oppose conversion based
24 on their believe that conversion will cause their prepetition unsecured claims to go unpaid. The
25 objections to the Motion fail to refute that the Trustee has established "cause" pursuant to 11 U.S.C.
26 § 1112(b) to convert the case. Many of the responses raise issues that are not before the Court,

TRUSTEE'S REPLY IN SUPPORT OF MOTION TO
CONVERT CASE FROM CHAPTER 11 TO CHAPTER
7 - 1

K&L GATES LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

501366733 v3

1 including addressing whether the Trustee may be appointed as trustee post-conversion of this case.
2 None of the objections provide a basis to deny the Motion, or establish that cause does not exist to
3 convert the case. The Trustee respectfully requests that the Court grant the Motion and convert this
4 case to a case under chapter 7 of the Code.

5 **A. The Objection of Mr. Atalla Lacks Merit.**

6 Mr. Bill Atalla, the former Chief Executive Officer of the estate, who has filed a separate
7 motion for allowance of a \$220,000 administrative claim, has objected to conversion of this case on
8 the basis that it will “simply add another layer of administrative expense.” According to Mr. Atalla,
9 the estate can be wound up and dismissed without conversion. Conversion will not add an additional
10 layer of administrative expense as Mr. Atalla suggests. Conversion will reduce administrative
11 expenses, by relieving the Trustee from chapter 11 obligations, including preparation of a plan and
12 disclosure statement, the payment of chapter 11 United States Trustee’s fees, and the filing of
13 monthly operating reports.

14 Mr. Atalla proposes a structured dismissal of this case. Mr. Atalla’s four-step plan ignores all
15 the additional work that needs to be done by a Trustee before this case can close, including the sale
16 of remaining assets, the resolution of the ownership of certain dies, the resolution of outstanding
17 litigation, the resolution of turnover of the Dayton premises to the landlord, and the pursuit of claims
18 that may result in the recovery of additional assets. This case is clearly a liquidating case. There is no
19 assurance that Mr. Atalla’s plan for structured dismissal would be approved by the Court or that it
20 would result in any less administrative expenses than would be incurred should this case be
21 converted according to the Trustee’s request.

22 **B. The Issue of the Trustee’s role In this Case Post-Conversion is Not Presently Before
23 the Court.**

24 Two individuals have suggested that Mr. Calvert should not act as Trustee in this case post-
25 conversion. That issue is not presently before the Court. The Trustee understands that his role as
26 chapter 11 Trustee will terminate upon conversion. The Trustee has requested that this case be

1 converted. The effect of conversion is to terminate “the service of any trustee or examiner that is
2 serving in the case before such conversion.” 11 U.S.C. § 348(e). Section 701(a)(1) of the
3 Bankruptcy Code provides that the United States Trustee shall appoint a panel trustee to serve as
4 chapter 7 trustee *or* a trustee “that is serving as trustee in the case immediately before the order for
5 relief under this chapter” If the Court orders conversion, the identity of the chapter 7 trustee
6 will be determined in due course by the United States Trustee post-conversion. The Trustee has
7 expressed his willingness to serve the estate as post conversion trustee and believes that his two year
8 history in administering the assets of the estate provides a significant advantage to future
9 administration of the case. In the past four months, the Trustee has liquidated significant components
10 of the estate’s assets on terms that are of benefit to the estate.

11 **C. The Post Conversion Trustee will Need Authority to Retain Skeleton Staff.**

12 In order to conclude the liquidation of the remaining assets of the estate, a post conversion
13 trustee will need to have the authority to retain a skeleton staff of employees. The Court has
14 previously approved a budget which includes the expenses for retention of this skeleton staff through
15 June 30, 2018. The Trustee requests that the Court authorize the retention of such a skeleton staff by
16 the chapter 7 trustee, subject to the existing budget, in connection with the order on conversion.

17 **III. CONCLUSION**

18 For the foregoing reasons, the Trustee requests that the Court grant the Motion and enter an
19 order converting this case to one under chapter 7 of the Bankruptcy Code.

20 DATED this 1st day of May, 2018.

21 K&L GATES LLP

22
23 By /s/ Michael J. Gearin
24 Michael J. Gearin, WSBA #20982
25 David C. Neu, WSBA #33143
26 Brian T. Peterson, WSBA #42088
Attorneys for Mark Calvert, Chapter 11 Trustee

TRUSTEE’S REPLY IN SUPPORT OF MOTION TO
CONVERT CASE FROM CHAPTER 11 TO CHAPTER
7 - 3

501366733 v3

K&L GATES LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

CERTIFICATE OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

The undersigned declares as follows:

That she is a Paralegal in the law firm of K&L Gates LLP, and on May 1, 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 1st day of May, 2018 at Seattle, Washington.

/s/ Denise A. Lentz
Denise A. Lentz