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David C. Neu, WSBA # 33143
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Honorable Christopher M. Alston
Chapter 11

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

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

Case No. 16-11767-CMA

DECLARATION OF MARK CALVERT
IN RESPONSE TO LETTER FROM
CHAMBERS DATED NOVEMBER 6,
12 2018

13
14 Mark Calvert declares as follows:

15 1. I am over the age of 18 years old and, if called as a witness, could and would testify
16 to the matters set forth herein based on my personal knowledge. Unless otherwise stated herein, I
17 make the following statements based upon my personal knowledge.

18 2. In its letter dated November 6, 2018, the Court instructed me to explain non-wage
19 payments made to Brenda Johnson. Brenda Johnson was an employee of Northwest Territorial Mint
20 (“NWTM”) who worked in the sales department at NWTM’s office in Arlington, Virginia.
21 Ms. Johnson was employed and paid through the ADP payroll system through December 29, 2017
22 when the company ceased operations.

23 3. On July 31, 2017, I closed NWTM’s Virginia office. This was a cost cutting move
24 that resulted in the reduction of lease and related costs of about \$3,500 per month. Ms. Johnson was
25 retained to continue to work remotely from her home. Bill Atalla, the CEO of NWTM, agreed that
26

1 Ms. Johnson would be paid a fixed monthly payment of \$550 to cover office expenses while she
2 worked from her home office and I was aware of this arrangement. Those office expenses included
3 shipping samples, postage, printing supplies, office supplies, internet, utilities and other
4 customer/office expenses to conduct business. Ms. Johnson received this monthly office expense
5 payment from August, 2017 through December, 2017, for a total of \$2,750.

6 4. The only other money Ms. Johnson received besides payroll and the monthly office
7 expense payments were reimbursement for costs incurred for moving and cleaning the Virginia
8 office and PO Box rental that she paid for personally.

9 5. Ms. Johnson's payroll was commission based and commission reports were sent to
10 Annette Trunkett who was a NWTM employee that processed payroll through ADP. Commissions
11 were calculated and entered in to ADP for bi-monthly checks. The monthly expense payment and
12 reimbursements listed below were paid through our payable system Bill.com as a live check.

- 13 • 8/1/17 \$324.00 PO Box Rental
- 14 • 8/25/17 \$550.00 August Stipend
- 15 • 9/20/17 \$1,300.00 Reimbursement for VA move out/cleaning of office space
- 16 • 9/28/17 \$550.00 September Stipend
- 17 • 11/6/17 \$550.00 October Stipend
- 18 • 11/7/17 \$550.00 November Stipend
- 19 • 12/27/17 \$550.00 December Stipend

20 6. Attached hereto as Exhibit A are the emails approving the \$550/month payment to
21 Brenda Johnson. I did not seek court approval for these payments, as I considered them and believe
22 them to be ordinary course payments made by NWTM in the conduct of its business operations.

23 7. Brenda Johnson's employment was terminated in December, 2017 when I closed the
24 Dayton facility and terminated the majority of NWTM's employees.

1 8. In the months after NWTM ceased operating, I learned that two employees were
2 contacting former NWTM customers and offering to create the same product for them that NWTM
3 had produced. The first former employee who came to my attention was Russ Wilson. On
4 January 30, 2018, I was informed that a customer had contacted Jenifer Baker, an employee of
5 NWTM, and told her that he received an email from Russ Wilson, working with a company called
6 Ranger Industries, offering to create coins for the former customer. I had previously learned that
7 Russ Wilson had taken several dies and medals from NWTM when he was terminated, which I
8 appropriately addressed on a timely basis. I called and confronted Russ Wilson and advised him he
9 had until 5 pm to return what he had removed including a very special die related to the Titanic. He
10 returned the dies and medals which I then had secured in the vault. I also informed Russ Wilson that
11 I would that I would pursue criminal charges if he misappropriated any NWTM assets. Mr. Wilson
12 has since made statements that I threatened him which has been mis-construed by a number of
13 people. I have received limited information that would suggest Russ Wilson has been in contact
14 with some NWTM customers but am not aware that he has used any dies, artwork or other assets of
15 NWTM.

16 9. In early February, 2018, it was brought to my attention that Brenda Johnson was
17 contacting former customers and offering to create product for them using designs from NWTM. I
18 had my counsel draft a cease and desist letter to Ms. Johnson, a copy of which is attached hereto as
19 Exhibit B. I have no reason to believe that Ms. Johnson ever set up a company or used NWTM
20 designs or customer lists. Her LinkedIn.com account has not been updated to reflect a new place of
21 employment. Based on my discussion with Paul Wagner, it is my understanding that Ms. Johnson
22 does not work for and has not worked for Sierra Mint.

23 10. In March, 2018, Paul Wagner informed me that he intended to start a business called
24 Sierra Mint to create promotional products. I informed Paul Wagner that he could not use any
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1 NWTM property, including customer lists or artwork, in his new company. He drafted me a short
2 memorandum explaining his intentions, a copy of which is attached hereto as Exhibit C.

3 11. The letter filed by Paula Pehl inaccurately states that Jenifer Baker went to work for
4 Sierra Mint. It is my understanding that Jenifer Baker now works for Medalcraft, the company that
5 purchased many of the Medallic Arts dies. I have reviewed the emails sent by Ms. Baker directing
6 former customers to Marty Colwell at Sierra Mint. It appears to me that Ms. Baker was attempting
7 to assist former customers by directing them to a company that could create product for them, given
8 that NWTM no longer could. I do not know why Ms. Baker stated that the product could be made
9 using “existing dies.” I can only speculate that she was mistaken in her understanding. I have
10 spoken with Paul Wagner who confirms that although Sierra Mint does use the same manufacturers
11 in China that NWTM used, it is paying to have new dies made to create its product.

12 12. Ms. Pehl’s letter is full of inaccuracies and conspiracy theories premised on
13 Ms. Pehl’s “suspicions.” For example, the insinuation that the dies in China or the NWTM business
14 operation using Chinese manufacturers are valuable assets is false. As Ms. Pehl knows, I attempted
15 to sell NWTM as a going concern without success. As discussed in my declaration filed on
16 January 19, 2018, at docket no. 1351, I commenced marketing efforts in March, 2017. I set up a data
17 room so that parties could do due diligence. I contacted in excess of 60 potential buyers, 10 of
18 which toured the facility. There were no legitimate offers to purchase NWTM as a going concern.
19 After it became apparent that I could not find a buyer to purchase the company as a going concern, I
20 solicited offers to purchase the assets of the estate. I did not receive any viable offers to purchase the
21 NWTM inventory that was manufactured in China or the other assets related to the “China
22 business.” The inventory that was manufactured in China remains under my control and I intend to
23 move the Court for approval of a process for liquidation of that inventory. As a member of the
24 Committee, Ms. Pehl was kept informed of my efforts and lack of interest in these assets.

1 13. The reality is that there are low barriers of entry for anyone wanting to contract with
2 Chinese manufacturers to create things like challenge coins. It is inexpensive to have a die made in
3 China, approximately \$150 to \$200, making it easy for someone to set up a business contracting with
4 Chinese manufacturers rather than purchase an existing business.

5 14. Ms. Pehl “suspects” that NWTM’s art computers are “stored” at Sierra Mint and
6 notes that she “heard” that Edgar Chacon went to Washington to set up this equipment. Ms. Pehl
7 insinuates that either the Trustee gave the art computers to Paul Wagner, or that Paul Wagner stole
8 them, without a shred of evidence. The reality is that I properly secured the art computers.
9 Concerned that former employees might try and steal these design computers, Edgar Chacon advised
10 me that he was going to lock the computers up in the archive room at the Dayton facility and I
11 approved that protective measure. The art files on the computers were ultimately migrated to
12 NWTM’s cloud server, the art computers were wiped of data and sold at auction. Rumors that the
13 art computers were missing were started by certain employees after I confronted them about entering
14 the facility after hours following their termination, at night without turning the lights on, and
15 removing items. This also was appropriately addressed with the individuals including obtaining a
16 sworn statement from one of the individuals what transpired that night.

17 15. I have also properly secured all of the servers that were in the Kent office which are
18 locked up in my office in downtown Seattle. These servers have all been backed up on the cloud. In
19 addition a hard drive of the entire server system is being made and provided to Ross Hansen’s and
20 Diane Erdmann’s defense attorney and the DOJ.

21 16. In sum, I have no knowledge of any use of NWTM’s assets in China by any third
22 party. Neither the estate nor I have received any consideration from Sierra Mint to allow the use
23 NWTM assets, including, but not limited to, dies, artwork, or customer lists. In the course of my
24 administration as Trustee in this case, I have had ongoing communications with Mr. Wagner and
25 other employees regarding the importance of securing estate assets and using them solely for the
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1 benefit of the bankruptcy estate. After I closed the Dayton facility, I was aware that Mr. Wagner
2 would need to find other means of employment and I was aware that he intended to start a new
3 business. I followed up with Mr. Wagner regarding his intended business plans and confirmed once
4 again with him that he would not be using estate assets. Mr. Wagner has consistently acknowledged
5 that he will not appropriate or use estate assets and has confirmed under oath that he has not done so.
6 Based upon my dealings with Mr. Wagner over the past two and one half years, I believe him.

7 17. From the start of the case and throughout the case, I have taken my fiduciary duties as
8 a Chapter 11 trustee seriously, and have consistently taken steps to secure estate assets and have
9 done my best to prevent any misappropriation of assets of the estate. For example, on my
10 appointment, with in the first few days, I changed all of the building locks, changed all of the
11 security passwords, backed-up data and surveillance footage, took thousands of pictures of all
12 inventory contained in the vault and safes. In addition I retained surveillance footage during the
13 physical inventories completed by Cascade and asked the FBI to inspect the Dayton vault in Nevada
14 up completion of the physical inventories. The FBI inspected the Dayton Vault upon completion of
15 the physical inventory and I provide the surveillance footage from the date I took over as the trustee
16 to the date the FBI inspected the Dayton vault to the FBI .

17 18. In addition I have and continue to perform additional procedures I deem appropriate as
18 the trustee to help ensure that the assets of NWTM are not being used without my authorization.

19 I declare under the penalty of perjury under the laws of the United States that the foregoing is
20 true and correct to the best of my knowledge.

21 EXECUTED this 14th day of November, 2018, at Sonoma, California.

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23 /s/ Mark Calvert
24 Mark Calvert
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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 November 14, 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 14th day of November, 2018 at Seattle, Washington.

/s/ Denise A. Lentz
Denise A. Lentz

EXHIBIT A

From: Bill Atalla <Bill.Atalla@medallic.com>
Sent: Monday, July 24, 2017 6:16 AM
To: Brenda Johnson; Matthew Lee
Cc: Paul Wagner
Subject: RE: Virginia Office relocation FOLLOW UP

Ok, \$550
Bill

From: Brenda Johnson
Sent: Monday, July 24, 2017 6:13 AM
To: Matthew Lee
Cc: Paul Wagner; Bill Atalla
Subject: Virginia Office relocation FOLLOW UP
Importance: High

Good morning,

Hope you all had a very nice weekend!

I spoke with Matt Lee last week and wanted to follow up with regarding the monthly stipend amount. After speaking with Paul, it was agreed what I was asking per month was not unreasonable, then when I spoke to Matt Lee only 325.00 was offered, which is extremely low. I am hoping we can at least meet in the middle and agree to **550.00** per month. Please confirm if this can be met.

Also, Mr. Lee, per our conversation I believe you were going to put paperwork together outlining Erica Jacobs part time terms, is that something you could email today?

UPDATE:: the IT people are arriving Friday 07/28 at 9:00am EST to box and ship all electronics back to Dayton, and the movers are scheduled for 07/31 to haul out all furniture from office.

Please let me know anything additional I can do in the meantime.

Thank you,

Brenda

From: Bill Atalla
Sent: Monday, July 17, 2017 6:26 PM
To: Brenda Johnson
Cc: Paul Wagner; Matthew Lee
Subject: Re: Virginia Office relocation FOLLOW UP re: Brenda Johnson

Sounds good.
Bill

Sent from my iPhone

On Jul 17, 2017, at 11:40 AM, Brenda Johnson <BrendaJ@nwtmint.com> wrote:

Good afternoon,

Hope you all had a nice weekend, was wondering if we us 4 could do another conference call to finalize all of the Virginia office details after the Wednesday meeting, 07/19?

Looking forward to hearing back!

Thank you,

Brenda

From: Brenda Johnson
Sent: Friday, July 14, 2017 3:46 PM
To: Paul Wagner; Bill Atalla
Cc: Matthew Lee
Subject: RE: Virginia Office relocation FOLLOW UP re: Brenda Johnson
Importance: High

Good afternoon,

The admin/sales support duties that Erica Jacobs assists me with on a daily basis are as follows:

- Email customer order tracking and invoices
- Assist with art submissions into art department
- Pull past order history and artwork if a customer interested in reordering
- Check order statuses
- Prospect research when given a direct field of interest
- Input orders into Epicor as soon as order info provided to her
- Aide with anything needed urgently if I am attending a local tradeshow or customer meeting

These are the key reasons why I would encourage to keep her on board, at least as a part time employee with her being able to keep her benefits, if possible. We have Ruben Atadero's company provided laptop here that he dropped off that she could use as her workstation.

Looking forward to your thoughts/feedback.

Also, I was going to try and go to the Post Office this weekend and get final figures on the cost of a PO box and possibly purchase, that way, I can setup the change of address through usps since it takes about 7-10 days to start forwarding mail.

Anything else please let me know!

Thank you!

Brenda
703 922 5783

From: Brenda Johnson
Sent: Wednesday, July 12, 2017 12:16 PM
To: Bill Atalla; Paul Wagner
Cc: Matthew Lee
Subject: Virginia Office relocation FOLLOW UP re: Brenda Johnson
Importance: High

Good morning all,

First let me say, I have and continue to love my job at Northwest Territorial Mint. I recently celebrated 12 years with the company on July 5th, 2017! With the Virginia office lease being terminated by the end of the month and after much consideration about the change to working remotely, I have put together the attached with the hopes these requests can be met. I only wish to optimize the home office situation so that I can continue to do my job to the best of my ability.

Also, in regards to Erica Jacobs (admin/receptionist here in the Virginia office) would it be possible to keep her on board with her working remotely PART TIME, maybe 9am-2pm EST, 5 hours a day, but keeping her medical benefits? I wouldn't be a good supervisor if I didn't try and fight for her, it is most helpful to have someone looking past order history up or pulling part information or entering orders, that works in the same time zone as the salesperson.

I am not sure if she would stay on board with a part time position, but I figured I would present it to you all to see if it was a possible option to present to her. I DID let her know this morning (she has been on vacation since Friday 07/07) that there are plans to shut down the Virginia office by the end of the month but that details were not yet worked out, and that is all that was said.

Is there a good time, upon review of this email, that we could all do a conference call?

Looking forward to hearing back and thank you for your consideration.

Brenda

<image001.jpg>

FW: Brenda Johnson re: Stipend

Annette Trunkett <annettet@nwtmint.com>

9:45 AM 

To Jody Quick

▶  2 attachments View Download Save to Drive

From: Paul Wagner
Sent: Thursday, August 17, 2017 11:41 AM
To: Annette Trunkett
Subject: RE: Brenda Johnson re: Stipend

Yes, this is the correct amt.

From: Annette Trunkett
Sent: Thursday, August 17, 2017 11:39 AM
To: Paul Wagner
Subject: FW: Brenda Johnson re: Stipend
Importance: High

Are you aware of a monthly stipend for Brenda?

From: Brenda Johnson
Sent: Thursday, August 17, 2017 10:52 AM
To: Matthew Lee
Cc: Annette Trunkett
Subject: Brenda Johnson re: Stipend
Importance: High

Good afternoon Mr. Lee,

Hope all is well! I was wondering when I could anticipate receiving the monthly stipend, and in what form it will be arriving in (check or direct deposit).

I have Cc'd Annette on this email also.

Looking forward to your reply.

Thank you,

Brenda
703 922 5783
brendaj@nwtmint.com<mailto:brendaj@nwtmint.com>

From: Brenda Johnson
Sent: Monday, July 24, 2017 9:47 AM
To: Matthew Lee
Subject: RE: Conversation

Hello!

I received Bills reply approving the 550.00 per month, I have attached for your convenience.

Looks like the Erica Jacobs is the only outstanding item right now! The question is health insurance will stay intact, but will vacation and PTO time also?

Thank you,

Brenda

Feedback

EXHIBIT B

March 29, 2018

David C. Neu
david.neu@klgates.com

T 206 370 8125
F 206 370 6289

VIA CERTIFIED MAIL AND U.S. MAIL

Brenda L. Johnson
180 S. Van Dorn St., Apt B-215
Alexandria VA 22304

Re: In re Northwest Territorial Mint, LLC, Case No. 16-11767, United States Bankruptcy Court for the Western District of Washington

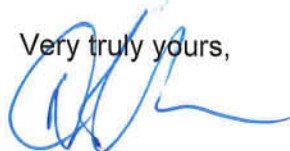
Dear Ms. Johnson:

We represent Mark Calvert in his capacity as the court-appointed Chapter 11 Trustee in the bankruptcy proceeding of Northwest Territorial Mint, LLC ("NWTM"). We have recently been informed that you may have been emailing former customers of NWTM to notify them that you retained the design for their coins and medallions, and that they can continue to work with you at a new company.

Please be aware that customer designs and customer relationships are assets of the NWTM bankruptcy estate, and are under the control of the Bankruptcy Court. Section 11 U.S.C. 362 of the Bankruptcy Code expressly prohibits "any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate." It is the Trustee's position that your possession of designs and customer information, and your attempt to use such designs and information constitute violations of this statutory injunction.

By this letter, the Trustee is demanding return of the company computer which you took with you when you left the employment of NWTM, and further demands that you affirm, by affidavit, that you have destroyed all NWTM-related documents and designs, including computer files. Should you fail to return the computer and destroy NWTM-related documents, the Trustee may seek an order compelling your compliance with the automatic stay, and seeking sanctions. I can be reached at the number above to discuss this matter further.

Very truly yours,



David C. Neu

EXHIBIT C

March 21, 2018

Mark,

Per our conversation last week, it is true that I am inching toward standing up an entity called Sierra Mint, LLC. This is very much in its infancy.

So it's known, this is not so much a mint as it is an import business of promotional products, more akin to an ASI business. I don't produce anything – other than a brand. I'm making this work based on my supply-chain and ASI experience and relationships I've forged over the years with overseas suppliers -- and partnering with good folks no longer with NWTM that also want to make this business work.

For the time being, there are no assets that I can make use of from Medallic/NWTM. When the auction comes around, I may make a bid on a couple of office desks, folding tables, a few racks, postage meter, some corrugated materials, maybe a few other things. Although not needed, I would like to obtain the custom import customer list if it's not wrought with legal issues around the sale/transfer of personally identifiable information. Added, the phone number for NWTM Custom (not medallic) – 800.843.9854 could be useful.

I did file for a business license in WA and trying to get one in NV. I'm working toward establishing banking, standing up a web site, an 800-number, credit card processing, office space, promotional/brochures, distributed phone system, etc. It's far from having enough infrastructure to call it much of a business. I don't have as much time right now to focus on Sierra as I would like, but I have employed Greg Fullington, Jason Fleet and Marty Colwell to work on it. I do plan to hire Jen Baker once her duties at NWTM have ceased.

At present I see no conflict of interest but will advise you should one develop. Should the time to stand up Sierra Mint conflict with responsibilities I have with NWTM, you will get my resignation. I do anticipate that the work with NWTM will end in May.



Paul Wagner