

Hon. Christopher M. Alston
Chapter: 11
Hearing Date: July 8, 2016
Hearing Time: 9:30 a.m.
Hearing Location: Courtroom 7206

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re:

NORTHWEST TERRITORIAL MINT, LLC,
Debtor.

NO. 16-11767-CMA

RESPONSE OF IRA GREEN, INC. TO RETT
LP'S MOTION FOR RELIEF FROM STAY
AND APPLICATION FOR ALLOWANCE
AND PAYMENT OF ITS
ADMINISTRATIVE EXPENSE AND/OR
ADEQUATE PROTECTION

Ira Green, Inc. ("IG") submits this Response to RETT LP's (the "Landlord") Motion for Relief from Stay and Application for Allowance and Payment of its Administrative Expense and/or Adequate Protection (the "Motion").

JURISDICTION AND VENUE

The Court has jurisdiction over the Sale Motion pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (M), (N), and (O). Venue of this case in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

On May 31, 2016, IG and the Trustee closed on the purchase of the Debtor's assets associated with the Tomball, TX facility.

IRA GREEN, INC.'S RESPONSE TO
RETT LP'S MOTION TO LIFT STAY - 1

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1 On or about June 8, 2016, IG began the process of removing the Purchased Assets (as
2 defined in the Asset Purchase Agreement dated May 31, 2016 (the “APA”) from the Tomball,
3 TX facility at 723 South Cherry Street (the “Premises”). This process has been logistically
4 complex; for example, the Debtor’s employees were laid off by the Trustee and independent
5 contractors were brought in to handle the logistics of moving an entire factory in a limited period
6 of time.

7 The removal of the Purchased Assets is ongoing and IG will require the entire month of
8 July to complete the packaging and removal of the Purchased Assets from the Premises. The
9 time period for the removal of the Purchased Assets was agreed to by the Trustee and
10 memorialized in the APA.

11 IG provided consideration of approximately \$30,000 for the continued access to the
12 Premises to reimburse the Trustee for the expense to the estate of maintaining the access to the
13 Premises.

14 IG disputes that it has caused any damage to the Premises. IG’s president, Michael
15 McAllister was present at the Premises on June 7, 2016, one day prior to IG’s first day of
16 property removal and witnessed preexisting damage to the facility caused by two recent floods in
17 the greater Houston, Texas area. At the time of his visit there were on-going construction and
18 remediation efforts taking place at the Premises. All office carpeting was removed and nearly all
19 walls were water soaked or water stained up to approximately 24” in height. In the factory areas,
20 the lower portion of numerous walls were cut away to remove water damaged material, and
21 bathrooms toilets had been removed and their drain systems plugged due to sewage entering the
22 facility. A copy of Michael McAllister’s declaration in support of this objection is filed
23 concurrently herewith.

24 IG has not caused any further damage to the Premises during the removal of the
25 Purchased Assets to date. IG has not engaged in any manufacturing of product in the Premises
26 and has not generated any hazardous waste. IG contracted with the Trustee to leave the Premises

1 in a broom clean condition. Additionally, IG agreed to remove the hazardous materials stored at
2 the Premises as set forth in the APA. IG has contracted for the transportation of the non-
3 hazardous and hazardous waste materials from the facility to IG's Providence, Rhode Island
4 facility. This shipment should take place on or about July 22nd.

5 IG's independent contractor involved with the removal of the assets, Paul Roderick, was
6 at the Premises shortly after it was flooded on April 18, 2016 and May 27, 2016. He witnessed
7 significant water damage to the drywall and flooring as a result of the floods. Roderick confirms
8 that IG has not caused any damage to the Premises. A declaration of Paul Roderick is filed
9 concurrently herewith.

10 Roderick received a request from the landlord to provide access to the Premises on or
11 about June 16, 2016. Tom Tucker indicated that a real estate representative, Patrick Buckhoff, of
12 Coldwell Banker Realty wanted access the Premises on June 17, 2016. During the same
13 conversation, Tucker requested that Jeff Muller, his contractor, be granted access to the building
14 as well. After consulting with the Trustee, IG agreed to facilitate the landlord's requests. *See*
15 Roderick Declaration, Par. 7.

16 On June 22, 2016, Monty Bradley, the former plant manager for Graco Awards,
17 accompanied the landlord's construction representative, Mr. Muller, on his site visit which took
18 approximately 15 minutes. Muller, reviewed the facility and stated to Mr. Bradley that there was
19 no damage being caused by IG and that he would relay that to Mr. Tucker. *See* Roderick
20 Declaration, Par. 8.

21 On June 28, 2016 the Trustee filed a motion to reject the Lease with the Landlord
22 effective as of July 31, 2016 [Docket No. 449]. IG supports this request and does not anticipate
23 requiring access to the Premises beyond July 31, 2016.

24 **OBJECTION**

25 Upon information and belief the Trustee has met all of his post-petition obligations to the
26 Landlord pursuant to the terms of the Lease. As set forth in the attached McAllister and

1 Roderick declarations, IG has not damaged and is not damaging the Premises. IG has provided
2 consideration to the Trustee for continued access to the leased Premises through July 31, 2016.
3 There is no basis to terminate the automatic stay at this time. The Landlord’s allegations in
4 support of his request for an additional \$44,000 in “adequate protection” are baseless and refuted
5 by the McAllister and Roderick declarations. Accordingly the landlord’s Motion should be
6 denied in its entirety.

7
8 DATED this 5th day of July, 2016.

9
10 /s/ John R. Rizzardi
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