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Honorable Christopher M. Alston  
Chapter 11  
Hearing Date: November 18, 2016  
Hearing Time: 9:30 a.m.  
Response Date: November 10, 2106

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8 UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

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

Case No. 16-11767-CMA

13 TRUSTEE'S RESPONSE TO  
14 BRADLEY STEPHEN COHEN AND  
15 COHEN ASSET MANAGEMENT,  
16 INC.'S MOTION FOR AN ORDER OF  
17 NON-APPLICABILITY OF THE  
18 AUTOMATIC STAY OR, IN THE  
19 ALTERNATIVE, RELIEF FROM THE  
20 AUTOMATIC STAY

21 Mark Calvert, the Chapter 11 Trustee (the "Trustee"), files this response to Bradley Stephen  
22 Cohen and Cohen Asset Management, Inc.'s Motion for an Order of Non-Applicability of the  
23 Automatic Stay or, in the Alternative, Relief from the Automatic Stay (the "Motion").

24 The Trustee has investigated the insurance coverage rights of the estate under the Primary  
25 Commercial General Liability Policies and the Umbrella Commercial General Liability Policies  
26 issued by Berkley National Insurance Company ("Berkley") which are the subject of the Motion (the  
"Policies"). The Trustee is presently unaware of any claims that the estate could bring, under the  
Policies, for the coverage years which are the subject of the Motion. Accordingly, the Trustee does  
not oppose granting relief from the stay to allow Mr. Cohen to pursue his claims solely against the

TRUSTEE'S RESPONSE TO MOTION FOR AN ORDER  
OF NON-APPLICABILITY OF THE AUTOMATIC STAY  
OR, IN THE ALTERNATIVE, RELIEF FROM  
AUTOMATIC STAY - 1

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1 proceeds of the Policies, provided that the estate is not subject to any litigation or claims as a  
2 consequence of Cohen's pursuit of the insurance proceeds and that as suggested in his Motion,  
3 Cohen applies any recovery of insurance proceeds from the Policies to reduce his claims against the  
4 bankruptcy estate.

5 1. The Insurance Policies are Property of the Bankruptcy Estate.

6 The Policies are property of the estate subject to the automatic stay because "the debtor's  
7 estate is worth more with them than without them." *In re Minoco Group of Companies, Ltd.*, 799  
8 F.2d 517, 519 (9th Cir. 1986). Courts have recognized that the Ninth Circuit has not resolved the  
9 issue of "whether the Policy proceeds that are potentially going to be paid to injured third-parties are  
10 property of the Debtors' estates." *In re Endoscopy Center of Southern Nevada, LLC*, 451 BR. 527,  
11 542-43 (Bankr. D. Nev. 2011) (noting that the "law in this area is not entirely consistent, and seems  
12 to depend in large part upon the type of policy involved, and whether the Debtor has or will receive  
13 any proceeds from the policy," in determining that the proceeds of a debtor's medical professional  
14 liability policy were not property of the estate); *see also In re Metropolitan Mortg. & Securities Co.,*  
15 *Inc.*, 325 B.R. 851, 855 (Bankr. E.D. Wash. 2005) ("The applicability of § 541 to proceeds of  
16 insurance policies is not yet a settled question in the Ninth Circuit."). The Trustee does not believe it  
17 is necessary for the Court to decide the issue of whether the insurance proceeds are property of the  
18 bankruptcy estate in order to adjudicate the Motion.

19 2. The Trustee does Not Object to Granting Relief from Stay to Pursue Claims Against the  
20 Proceeds of the Policies.

21 The Trustee is presently unaware of any claims that the estate could bring under the Policies  
22 for the coverage years which are the subject of the Motion. Accordingly, the Trustee does not oppose  
23 granting relief from the stay to allow Mr. Cohen to pursue his claims solely against the proceeds of  
24 Policies, provided that the Debtor will not be subject to any litigation or claims by any party as a  
25 consequence of the pursuit of the claims of Cohen against the proceeds of the Policies, and further  
26

1 provided that as suggested in his Motion, Cohen applies any recovery of insurance proceeds from the  
2 Policies to reduce his claims dollar for dollar against the bankruptcy estate and provides prompt  
3 notice to the Trustee of any insurance settlement or receipt of insurance proceeds.

4  
5 DATED this 10th day of November, 2016.

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7 K&L GATES LLP

8  
9 By /s/ Michael J. Gearin  
10 Michael J. Gearin, WSBA #20982  
11 David C. Neu, WSBA #33143  
12 Brian T. Peterson, WSBA #42088  
13 Attorneys for Mark Calvert, Chapter 11 Trustee  
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TRUSTEE'S RESPONSE TO MOTION FOR AN ORDER  
OF NON-APPLICABILITY OF THE AUTOMATIC STAY  
OR, IN THE ALTERNATIVE, RELIEF FROM  
AUTOMATIC STAY - 3

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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 10, 2016, 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 November 10, 2016, she caused the foregoing document to be mailed 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 10th day of November, 2016 at Seattle, Washington.

/s/ Denise A. Evans  
Denise A. Evans