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Honorable Christopher M. Alston  
Chapter 11  
Hearing Location: Seattle, Rm. 7206  
Hearing Date: June 23, 2017  
Hearing Time: 9:30 a.m.  
Response Date: June 21, 2017

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8 UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

9 In re:

Case No. 16-11767-CMA

10 NORTHWEST TERRITORIAL MINT, LLC,

11 TRUSTEE'S REPLY TO OBJECTION OF  
12 ROSS HANSEN TO MOTION FOR  
13 EXAMINATIONS OF ROSS B. HANSEN  
AND DIANE ERDMANN PURSUANT  
14 TO RULE 2004 AND SUBPOENAS  
PURSUANT TO RULE 9016

15 Mark Calvert, Trustee (the "Trustee") for the Northwest Territorial Mint, LLC ("NWTM"),  
16 in the above-captioned proceeding, by and through his attorneys, K&L Gates, LLP, replies to the  
17 objection ("Objection") of Ross Hansen to his motion for entry of an order for examination of Ross  
18 B. Hansen and Diane Erdmann pursuant to Federal Rules of Bankruptcy Procedure 2004(b) and (c)  
19 and authority to serve subpoenas pursuant to Federal Rule of Bankruptcy Procedure 9016 to certain  
20 third parties (the "Motion"), and states as follows:

21 **I. REPLY**

22 Ross Hansen's characterization of the Trustee's request to examine him pursuant to  
23 Bankruptcy Rule 2004 as a "litigation tactic" is patently untrue. From the commencement of this  
24 proceeding, Ross Hansen has done his best to frustrate and obfuscate the Trustee's efforts to obtain  
25 information from him and to administer the estate. His Objection makes reference to examples of  
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REPLY RE: MOTION FOR SUBPOENA  
PURSUANT TO RULES 2004 AND 9016 - 1  
500458274 v2

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1 the disputes the Trustee has had with Hansen regarding his interference with the estate and the  
2 painful efforts that were required to pry information from him., Perversely, he paints the Trustee's  
3 investigation and administration of the estate as it relates to him as efforts to discredit and harass  
4 him.

5 Hansen points to his efforts to participate in the auction for assets located in Tomball, Texas  
6 (the "Graco Assets") as one such example of what he perceives as harassment. But Hansen did not  
7 legitimately participate in the Graco Asset auction. As this Court will recall, at the May 26, 2016  
8 hearing on the Trustee's sale motion, Hansen argued that he should be permitted to act as a bidder for  
9 the Graco Assets, representing to this Court that he had a financial backer, Olympic Trading  
10 Company, which would finance his acquisition of the Graco Assets for at least \$600,000. Hansen's  
11 representations caused this Court to continue the hearing and instruct the Trustee to hold an auction  
12 for the assets. Further argument took place during the auction on whether an email from Mr. Parrish  
13 (the principal of Olympic Trading Company) was adequate proof of funding for Hansen to  
14 participate as a bidder in the auction. When the Trustee brought the question before the Court, the  
15 Court ruled that it was not.

16 The Trustee's counsel subsequently deposed Mr. Parrish and learned that he never committed  
17 to fund more than \$100,000, the amount of the earnest money deposit, to Mr. Hansen.<sup>1</sup> Mr.  
18 Parrish's deposition also revealed that Mr. Parrish thought that the \$100,000 was being used by  
19 Hansen to acquire the assets of Medallic, and not the Graco Assets. In sum, Hansen falsely  
20 represented that he had funding to support a competing bid for the sale of the Graco assets when he  
21 did not. His misrepresentations caused further argument before this Court and necessitated that the  
22 Trustee hold an auction—at significant administrative expense to the estate. Despite all of this,  
23 Hansen now has the audacity to criticize the Trustee's efforts to examine Mr. Parrish in an effort to  
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25 <sup>1</sup> Transcripts of the 2004 examination of Michael Parrish and a deposition of Ross Hansen, in which  
26 he admits he never had funding, were attached to the Declaration of Michael Gearin [Dkt. No. 576].

1 get to the truth about the source of the funds Olympic was willing to commit to Mr. Hansen.

2 Hansen points to the Trustee's motion to hold him in contempt for violations of the automatic  
3 stay. Hansen's interference with the Trustee's administration of the estate which were the basis for  
4 the Trustee's motion are in the record, and, in the interest of brevity, the Trustee will not address  
5 them other than to say that the Trustee sought relief to address serious acts of interference by Mr.  
6 Hansen. While the Court ultimately found that from a legal perspective these acts did not violate the  
7 bankruptcy automatic stay, it did not absolve Mr. Hansen from culpability for such acts, stating

8 "this motion is to send a message. I can send the message that if these allegations  
9 are true, they're terrible. And Mr. Hansen understands that if these things are true,  
10 it's not good. Maybe criminal. I don't know. But the reality is, even if I find them  
11 all true, I can't find them to be a violation of the automatic stay. So I'm denying  
12 the motion. To be perfectly clear, I am not condoning any actions. I'm not finding  
13 that what Mr. Hansen said is true. I'm not accepting his version of the facts. They  
14 may not be.

15 Transcript of Hearing Held on 8/5/2016 [Dkt. No. 632].

16 Finally, Hansen accuses the Trustee of harassing him regarding his compliance with the  
17 Court's April 25, 2016 order (the "4/16 2004 Order"), misrepresenting the fact that it was his  
18 utter failure to comply with the 4/16 2004 Order that ultimately compelled the Trustee to file a  
19 motion for contempt. Pursuant to the 2004 Order, Ross Hansen was ordered to produce several  
20 categories of documents to the Trustee, including "[m]onthly account statements for all bank  
21 accounts or investment accounts in which Ross B. Hansen holds an interest" and "[m]onthly  
22 account statement for all credit cards in which Ross B. Hansen holds an interest."

23 On June 10, 2016, Ross Hansen produced an extremely small amount of documents to the  
24 Trustee. His production did not include bank statements or statements for any investment  
25 accounts or credit card accounts. After a lengthy back and forth, during which Hansen refused to  
26 produce any statements on the grounds that copies could be found somewhere in NWTM's

1 voluminous records,<sup>2</sup> and ignoring the fact that Hansen could have easily requested copies from  
2 his bank<sup>3</sup>, the Trustee was able to locate statements from 2010 through 2015 in a litigation file.  
3 It was only from these statements that the Trustee learned that Mr. Hansen maintained  
4 investment accounts at M.F. Global, Inc. and R.J. O'Brien & Associates, LLC (the "Investment  
5 Accounts"), and that over the period covered by the bank statements, Mr. Hansen wired to, and  
6 received wires from, these entities totaling several million dollars.

7         Needless to say, Mr. Hansen had not produced statements from the Investment Accounts  
8 or informed the Trustee of their existence. So, on July 22, 2016, almost three months after entry  
9 of the 4/16 2004 Order, the Trustee had to go back to Hansen's counsel and demand copies of  
10 the post-October, 2015 bank statements and statements from the investment account. Two  
11 weeks later, having received no response, the Trustee did, in fact, file a motion to have Mr.  
12 Hansen held in contempt for violating the 4/16 2004 Order. It was only after the contempt  
13 motion was filed that Hansen obtained and provided some of the missing statements. As detailed  
14 in the Declaration of David C. Neu [Dkt. No. 747], Hansen continued to obfuscate, however the  
15 Trustee was able to independently locate the custodian of (and persuade Hansen's counsel to  
16 authorize the release of) the rest of the investment account statements and to obtain Mr. Hansen's  
17 tax returns by sending a subpoena to his accountant. Ultimately, it took until October 18, 2016,  
18 almost six months after the 4/16 2004 Order, for the Trustee to obtain documents that Hansen  
19 could have easily produced in days. So, contrary to Hansen's implication that the Trustee struck  
20 the contempt motion because it lacked merit, the Trustee actually struck the contempt motion  
21 because it was mooted, largely by the Trustee's independent efforts to obtain records that Hansen  
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24 <sup>2</sup> Some of the correspondence between counsel for the Trustee and counsel for Mr. Hansen on this  
25 issue is attached to the Declaration of David C. Neu [Dkt. No. 582] which also supports the facts set  
26 forth herein.

<sup>3</sup> Documents are in a party's control if it has the legal right to obtain such documents on demand.  
*United States v. Int'l Union of Petroleum & Indus. Workers*, 870 F.2d 1450, 1452 (9th Cir.1989)  
(citing *Searock v. Stripling*, 736 F.2d 650 (11th Cir.1984).

1 should have produced months earlier and after Hansen finally did produce or authorize the  
2 release of relevant documents.

3 The Trustee's efforts to obtain information from Hansen and Erdmann have been  
4 repeatedly hampered by Hansen and Erdmann's lack of candor and veracity. It is only when the  
5 Trustee manages to discover facts that should have been disclosed, such as the existence of the  
6 Investment Accounts, that Hansen and Erdmann see fit to come clean, repeatedly requiring the  
7 Trustee to double back to obtain more information based on the newly discovered facts. With  
8 respect to the hundreds of thousands of dollars of precious metal that Erdmann has been  
9 liquidating since last October, it appears that she not only failed to disclose the fact that she  
10 possessed or controlled such assets, but that she made material misrepresentations to deceive the  
11 Trustee and others. In light of the fact that millions of dollars worth of precious metal that  
12 should be in NWTM's vault is unaccounted for, the Trustee cannot ignore, and leave unexplored,  
13 the fact that Diane Erdmann, the self-proclaimed "gatekeeper" of NWTM's vault, possessed or  
14 controlled and sold hundreds of thousands of dollars in precious metals mere months after  
15 testifying as to her poverty.

## 16 II. CONCLUSION

17 Erdmann and Hansen's lack of candor and veracity in prior sworn testimony forces the  
18 Trustee to formally seek information on transactions which he only recently independently  
19 discovered. The very nature of the transactions at issue, selling precious metals secretly and at  
20 locations as far away as Illinois, in exchange for checks and wire transfers issued to third parties,  
21 together with Erdmann's inconsistent testimony, suggests that Erdmann and Hansen were attempting  
22 to conceal assets and the source of funds used to pay their personal expenses and legal fees.<sup>4</sup> Now  
23 that they have been caught with their hand in the proverbial cookie jar, they accuse the Trustee of  
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25 <sup>4</sup> It bears noting that the transactions detailed in the Motion are only the ones the Trustee has  
26 discovered to date. There may be more transactions of a similar nature that have not been uncovered  
and that is one of the objectives of the discovery request.

1 engaging in litigation tactics and decry his failure to “disclose the extent of discovery and  
2 depositions already obtained on these issues,” as though it is the Trustee’s fault rather than their own  
3 actions that prevented these transactions from coming to light earlier. The Trustee should be  
4 authorized to issue subpoenas to third parties, as Hansen and Erdmann have an established pattern of  
5 a lack of candor and the Trustee must be allowed to obtain independent verifying records. Finally,  
6 the Trustee should be authorized to inspect and inventory any precious metals or bullion that remain  
7 in the possession or control of Erdmann or Hansen, as there may be distinctive features such as serial  
8 numbers which would assist in identification of those assets.  
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10 DATED this 22nd day of June, 2017.

11  
12 K&L GATES LLP

13  
14 By /s/ David C. Neu  
15 Michael J. Gearin, WSBA #20982  
16 David C. Neu, WSBA #33143  
17 Brian T. Peterson, WSBA #42088  
18 Attorneys for Mark Calvert, Chapter 11 Trustee  
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**CERTIFICATE OF SERVICE**

The undersigned declares as follows:

That she is a Sr. Practice Assistant in the law firm of K&L Gates LLP, and on June 22, 2017, 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 22nd day of June, 2017 at Seattle, Washington.

/s/ Benita G. Gould  
Benita G. Gould