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Honorable Christopher M. Alston
Chapter 11
Hearing Location: Seattle, Rm 7206
Hearing Date: Friday, May 6, 2016
Hearing Time: 9:30 a.m.
Response Date: May 2, 2016

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

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

Case No. 16-11767-CMA

TRUSTEE'S REPLY TO DIANE
ERDMANN'S RESPONSE TO
MOTION FOR AUTHORITY TO
WITHDRAW AS ATTORNEY FOR
DEBTOR

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15 Mark Calvert, the Chapter 11 Trustee (the "Trustee"), files this Reply to Diane Erdmann's
16 Response to the Motion of the Tracy Law Group PLLC ("TTLG") for Authority to Withdraw as
17 Attorney for Debtor (the "Motion").

18 In her response, Ms. Erdmann asserts that the unexpended portion of the \$150,000 retainer
19 paid to TTLG is not property of the estate as it "indisputably originated from Ms. Erdmann." In
20 support, Ms. Erdmann submits a declaration in which she states that she partially funded the retainer
21 with \$50,000 in cash from her checking account. She vaguely describes funding the remaining
22 \$99,460 of the retainer by liquidating her "own personal property." And she suggests that the source
23 of the funds was the proceeds from a life insurance policy paid to her nearly twenty-three years ago.

24 The facts are not as "clear and straightforward" as Ms. Erdmann would have the Court
25 believe. Notably, Ms. Erdmann does not provide any information as the source of the funds in her
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TRUSTEE'S REPLY TO DIANE ERDMANN'S
RESPONSE TO MOTION FOR AUTHORITY TO
WITHDRAW AS ATTORNEY FOR DEBTOR - 1

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1 checking account, what “personal property” she liquidated, or how she acquired the personal
2 property that was liquidated. She does not provide evidence that substantiates that either the funds
3 in her accounts or the liquidated personal property were derived from the insurance proceeds paid to
4 her two decades ago. In support of this Reply, the Trustee submits the Declaration of Dave
5 Huffman, who is the Director of Security for Northwest Territorial Mint, LLC. As described in the
6 Huffman Declaration, NWTM security cameras captured Ms. Erdmann and Ross Hansen in the
7 company vault in Federal Way, Washington on Easter Sunday, March 27, 2016, removing
8 significant coins and precious metals from the company vault. This was only four days prior to the
9 date on which the retainer was paid to TTLG.

10 Mr. Huffman further describes that Ross Hansen, on March 31, 2016, instructed him to meet
11 Ms. Erdmann in the NWTM company vault, to take possession of a bag of coins and precious
12 metals. The bag of coins and precious metals was delivered to Mr. Huffman in the vault on the
13 business premises of NWTM. Ross Hansen instructed Mr. Huffman to drive to a local coin dealer in
14 Ms. Erdmann’s car, where the dealer “cherry-picked” 1/3 of the contents of the bag. In exchange for
15 the coins, the coin dealer, John Drummey, had Key Bank make out a check to Ms. Erdmann in the
16 amount of \$99,460.00. Mr. Huffman returned to the NWTM offices, where Ross Hansen had Ms.
17 Erdmann sign the check over to TTLG and the remaining coins and the bag were delivered to Ms.
18 Erdmann in Mr. Hansen’s presence. Mr. Tracy’s declaration in support of his motion to withdraw
19 [Dkt. 87] acknowledges that Ms. Erdmann endorsed a check to him made by Mr. Drummey in the
20 amount of \$99,460 which formed a portion of his firm’s retainer.

21 The retainer funds do not indisputably belong to Ms. Erdmann. Ms. Erdmann has not
22 provided evidence as to the source of the funds in her bank accounts. Ms. Erdmann provided no
23 information regarding the nature of the personal property she alleges was liquidated in exchange for
24 the Drummey check let alone her ownership of that property. Ms. Erdmann and Mr. Hansen
25 removed substantial quantities of collectible coins and precious metals from the NWTM vault a
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TRUSTEE’S REPLY TO DIANE ERDMANN’S
RESPONSE TO MOTION FOR AUTHORITY TO
WITHDRAW AS ATTORNEY FOR DEBTOR - 2

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1 matter of days before collectible coins were sold to Mr. Drummey. The coins and precious metals
2 that were sold to Mr. Drummey were delivered to an NWTM employee in the vault in the NWTM
3 business premises and were delivered by that NWTM employee to Mr. Drummey. The Trustee has
4 outstanding BR 2004 requests which have been served upon Ms. Erdmann seeking information
5 about her financial dealings with NWTM which discovery will be relevant to determining the source
6 of the assets which generated the TTLG retainer.

7 Ms. Erdmann's claim that payment of the retainer into this Court's registry would cause
8 TTLG to violate the rules of professional conduct is inaccurate. RPC 1.15(f), upon which Ms.
9 Erdmann relies, requires delivery of property to a third person who is entitled to receive such
10 property, "[e]xcept as stated in this Rule." RPC 1.15(g) specifically states that where there is a
11 dispute as to ownership of the funds, they should not be paid to the third party. RPC 1.15(g) ("If a
12 lawyer possesses property in which two or more persons (one of which may be the lawyer) claim
13 interests, the lawyer must maintain the property in trust until the dispute is resolved.").

14 In light of these circumstances, the Trustee believes the retainer funds should be held until
15 the parties can conduct discovery and resolve the disputes as to the ownership of the funds. The
16 funds should be placed into a segregated account maintained by the Trustee or placed in the Court's
17 registry pending a resolution of the ownership of the funds.

18 DATED this 4th day of May, 2016.
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22 K&L GATES LLP

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

TRUSTEE'S REPLY TO DIANE ERDMANN'S
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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 May 4, 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.

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 4th day of May, 2016 at Seattle, Washington.

/s/ Denise A. Evans
Denise A. Evans