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Honorable Christopher M. Alston
Chapter 11
Hearing Location: Rm. 7206
Hearing Date: August 5, 2016
Hearing Time: 9:30 a.m.
Response Date: July 29, 2016

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

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

Case No. 16-11767-CMA

**TRUSTEE'S REPLY IN SUPPORT OF
MOTION FOR ORDER HOLDING ROSS
HANSEN IN CONTEMPT FOR
VIOLATION OF AUTOMATIC STAY**

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14
15 **REPLY**

16 Mark Calvert (the "Trustee"), Chapter 11 Trustee for Northwest Territorial Mint, LLC
17 ("NWTM" or the "Debtor"), submits this reply in support of his Motion for Order Holding Ross
18 Hansen ("Hansen") in Contempt for Violation of the Automatic Stay (the "Motion"). Hansen
19 response to the Motion feigns ignorance of the basis for the Trustee's allegations of violation of the
20 automatic stay and seeks to portray Hansen as a victim of mistreatment by the Trustee. As is his
21 custom, Hansen engages in misdirection in his discussion of multiple events that the Trustee has not
22 alleged are violations of the stay. As was stated in the Trustee's Motion, Hansen has violated the
23 automatic stay by means of his acts "to obtain possession of property of the estate or of property
24 from the estate or to exercise control over property of the estate." NWTM cannot operate with
25 Hansen working in the background to persuade employees to damage estate property and to "walk
26 out" of their employment with the estate. Mr. Hansen cannot be allowed to appear at the business

TRUSTEE'S REPLY IN SUPPORT OF MOTION FOR
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VIOLATION OF THE AUTOMATIC STAY - 1

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1 premises of the estate without the consent of the Trustee. Mr. Hansen cannot seek to obtain records
2 in the possession of the Trustee by engaging in an artifice that he has the authority to do so. Mr.
3 Hansen cannot seek to exercise control over retainer funds in which the estate has an interest by
4 untruthfully asserting permission. Mr. Hansen cannot appear before the court under the guise of
5 asserting his legal rights and untruthfully testify in order to obstruct the Trustee's legitimate efforts
6 to administer assets. The Trustee's Motion is premised on real and serious concerns. He has sought
7 to obtain commitments from Hansen that he will refrain from his actions that violate the stay, but
8 Hansen has consistently refused to so commit. The Trustee is compelled to seek relief from the
9 Court to ensure that Hansen will not continue his pattern of interference with the business affairs of
10 the estate. As explained herein and described in the Motion, Hansen's violations of the automatic
11 stay (and the order appointing the Trustee) have hampered the Trustee's ability to effectively run
12 NWTM and have caused the Trustee to incur additional administrative expenses in this case. The
13 Trustee has established at least six concrete instances of Hansen's conduct that violate 11 U.S.C.
14 § 362(a)(3) and the order appointing Mark Calvert as Trustee.

15 **A. Hansen Solicited Ms. Krum to Destroy Estate Machinery and Delete Estate**
16 **Computer Files.**

17 As set forth in the declaration of NWTM employee Destiny Krum filed in support of the
18 Motion and the excerpts of her deposition attached to the Declaration of Michael Gearin filed
19 herewith, Hansen specifically asked Ms. Krum if she would disable Building B's valuable engraving
20 machine; and whether she could destroy copies of her computer files after making copies for his own
21 benefit. On July 29, 2016, Hansen's counsel took Ms. Krum's deposition.¹ At deposition, Ms. Krum
22 reinforced her assertions testimony that Hansen asked her whether she would destroy estate property
23 on his behalf. There is no dispute that the engraving machine in Building B and the computer files

24 ¹ In his response, Hansen states that Ms. Krum was not made available for deposition prior to the response
25 date and that Hansen intends to file a supplemental response. As explained in the supplemental declaration of
26 Michael J. Gearin filed in support of the Motion, the Trustee did continue the hearing date once in order to
accommodate Mr. Hansen's request and did make Ms. Krum available for deposition at the time and place
requested by Hansen. The timing of the Krum deposition was in the control of Mr. Hansen, not the Trustee.
The Trustee will object to the untimely introduction of additional responsive materials by Mr. Hansen.

TRUSTEE'S REPLY IN SUPPORT OF MOTION FOR
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1 Ms. Krum refers to are assets of NWTM. Thus, Hansen’s efforts to gain control over and damage the
2 engraving machine and computer files constitute a clear violation of 11 U.S.C. § 362(a)(3).

3 **B. Hansen Obtained Possession and Control Over Property of the Estate by Sending**
4 **Six Boxes of Coins and Precious Metals to Dayton.**

5 Hansen fails to offer an explanation for his shipment of a large quantity of precious metals to
6 Dayton, Nevada, on the eve of the Trustee’s appointment. The shipment included collectible sports
7 memorabilia coins that had been purchased by NWTM. The Trustee has re-inspected the contents of
8 the six boxes shipped to Dayton and has confirmed that among their contents is an NWTM purchase
9 order for coins including “miscellaneous sports” coins, documents establishing the authenticity of
10 the sports coins and multiple .999 fine silver sports coins as reflected in the NWTM purchase order.
11 Copies of pictures of the contents of the six boxes are attached to the Declaration of the Trustee in
12 support of this Reply. The evidence submitted by the Trustee establishes that Hansen exercised
13 control over the contents of the six boxes, which definitively contain property of the estate.

14 Hansen argues that the six boxes contain property of Medallic which was to be stored in a
15 Medallic Archive. The Medallic Archive was acquired in connection with the 2009 purchase of
16 assets of Medeallic Art Company, which was then owned by Robert and Connie Hoff. According to
17 the declaration of Ms. Hoff submitted with the Reply, the property in the six boxes was not a part of
18 the Medallic Archive as of 2009.

19 **C. Hansen’s Deliberate and Baseless Interference with the Graco Sale.**

20 Hansen argues that he was entitled to participate in the Graco sale proceedings and object to
21 the Trustee’s proposed sale on behalf of Medallic. It is not his participation that violates the stay; it
22 is his baseless assertion of objections to the sale for the purpose of obtaining possession and
23 exercising control over property of the estate. In connection with the Graco sale hearings, Hansen
24 falsely represented to the Court, that Medallic (a) owned significant assets that were in the Tomball
25 facility and were being sold by the Trustee; and (b) that Medallic had the financial capability to
26 participate as a bidder in the auction. At the May 26, 2016 hearing on the Trustee’ sale motion,

TRUSTEE’S REPLY IN SUPPORT OF MOTION FOR
ORDER HOLDING ROSS HANSEN IN CONTEMPT FOR
VIOLATION OF THE AUTOMATIC STAY - 3

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1 Hansen objected to the Trustee's request that a sale to Ira Green, Inc. be approved. Instead, he
2 argued that he should be permitted to act as a bidder, representing to this Court that he had a
3 financial backer, Olympic Trading Company, which would finance his acquisition of the Graco
4 assets for at least \$600,000. Hansen's representations caused this Court to continue the hearing and
5 instruct the Trustee to hold an auction for the assets. Further argument took place during the auction
6 on whether an email from Mr. Parrish (the principal of Olympic Trading Company) was adequate
7 proof of funding for Hansen to participate as a bidder in the auction. The Court ruled that it was not.

8 The Trustee's counsel subsequently deposed Mr. Parrish and learned that he never committed
9 more than \$100,000, the amount of the earnest money deposit, to Mr. Hansen.² Mr. Parrish's
10 deposition also revealed that Mr. Parrish thought that the \$100,000 was being used by Hansen to
11 acquire the assets of Medallic, and not the Graco business. It is clear that Hansen falsely represented
12 that he had funding to support a competing bid for the sale of the Graco assets when he did not. His
13 misrepresentations caused further argument before this Court and necessitated that the Trustee hold
14 an auction—at significant administrative expense to the estate.

15 Mr. Hansen also falsely testified to the Court that significant assets owned by Medallic had
16 been shipped to Tomball including 15,000 coining dies, a \$300,000 coining press and a very
17 valuable hydraulic press. As described in the Declaration of Robert Vugteveen in support of this
18 Reply, these statements of Mr. Hansen are categorically false. There is no material asset of
19 Medallic's in the Tomball premises.

20 **D. Unauthorized Access to Estate Premises to Obtain Possession of Records.**

21 Hansen appeared at the Debtor's Federal Way premises for the purpose of taking possession
22 of certain records that were in the possession of the estate. Hansen attempted to deceive NWTM
23 employees by falsely stating that he had authorization to obtain these documents. Hansen suggests
24 that his actions do not constitute a violation of the automatic stay because he was merely attempting

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26 ² Copies of excerpts to from the Parrish deposition are attached to the Declaration of Michael Gearin in support of this Reply.

1 to obtain documents that belong to Medallic. The fact that the documents relate to Medallic does not
2 give him any basis to gain access to the the Debtor's business premises. His entry into the business
3 premises under circumstances where he knew he was precluded from access are acts to obtain
4 control over property of the Debtor. And even if the records Mr. Hansen sought to recover were
5 Medallic records, they were in the possession of the estate. The automatic stay bars acts to obtain
6 "property from the estate" as well as "property of the estate." See 11 U.S.C. § 362(a)(3).

7 **E. The Tracy Retainer.**

8 The Trustee recognizes that the issue of whether the retainer paid to Mr. Tracy, the Debtor's
9 bankruptcy former counsel constitutes property of the bankruptcy estate has been litigated by the
10 parties and will be determined by the Court. Hansen argues that if the Court determines the retainer
11 funds are property of Ms. Erdmann, then Hansen could not have violated the stay. But that is not the
12 case. Mr. Hansen knew that the retainer funds had been provided to Mr. Tracy to service expenses of
13 administration of the bankruptcy estate and that the estate has an interest in the funds regardless of
14 who provided the retainer. Mr. Hansen's actions to obtain possession of the retainer funds violated
15 the automatic stay.

16 **F. Efforts to Convince Employees to "Walk Out" without Notice or Leave the Employ
17 of the Debtor.**

18 The Trustee has set forth multiple examples of instances where Hansen contacted employees
19 and told them that they should walk out on the Debtor without notice or leave the Debtor and work
20 for him. Hansen knows that the employees have been instructed not to speak with Hansen, and the
21 Trustee has legitimate reasons for giving the NWTM employees such instructions. The Debtor's
22 employees are valuable assets of the estate. Hansen's efforts to interfere with their employment
23 relationship with the estate constitute acts to exercise control over an assets of the estate.

24 **G. The No Harm/No Foul Argument.**

25 Hansen suggests that because he was not successful in obtaining control of property of the
26 estate, there can be no stay violation. The automatic stay prohibits any *act* to obtain possession or

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ORDER HOLDING ROSS HANSEN IN CONTEMPT FOR
VIOLATION OF THE AUTOMATIC STAY - 5

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1 exercise control over the property of the estate—it is not limited to actions which are successful in
2 obtaining possession or control. *See Morgan Guar. Trust Co. of New York v. American Sav. & Loan*
3 *Ass’n*, 804 F.2d 1487, 1492 n.4 (9th Cir. 1986) (stating that courts have held that the automatic stay
4 may be violated by communications containing threats or harassment and including by, for instance,
5 giving notice of intent to terminate a lease). The fact that Hansen may have been unsuccessful in, for
6 instance, convincing Ms. Krum to destroy a valuable engraving machine and copy important files,
7 does not render Hansen’s “act” any less of a violation of section 362 of the Bankruptcy Code.
8 Hansen’s position is contrary to the plain language of 11 U.S.C. § 362(a)(3).

9 **H. The Stay is Violated by Acts to Obtain Possession of Property From the Estate.**

10 The automatic stay bars actions to obtain possession of both property of the estate and to
11 obtain possession of property from the estate. Hansen argues that because he was taking actions to
12 obtain possession of Medallic records or Medallic archive materials, the stay is not violated. But the
13 stay precludes actions to dispossess the estate of property even if it is not property of the estate. *See*
14 3 COLLIER ON BANKRUPTCY ¶ 362.03[5] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.) (“The
15 property protected may be property of the estate or property in the possession of the estate. An
16 example of the latter would be property which was leased or bailed to the debtor prior to the
17 commencement of the case.”); *see also In re Zartun*, 30 B.R. 543, 545 (BAP 9th Cir. 1983).

18 In pursuing this Motion, the Trustee does not seek to expand the scope of the automatic stay.
19 The Motion is not motivated by personal animosity towards Mr. Hansen. The Motion is intended to
20 protect the valuable business interests of the estate from Mr. Hansen’s intentional efforts to disrupt,
21 delay and devalue the estate. The Trustee respectfully requests that the Court hold Mr. Hansen in
22 contempt and order the relief requested in the Motion.

23 DATED this 2nd day of August, 2016.

K&L GATES LLP

24 By /s/ Michael J. Gearin

Michael J. Gearin, WSBA #20982

David C. Neu, WSBA #33143

Brian T. Peterson, WSBA #42088

25 Attorneys for Mark Calvert, Chapter 11 Trustee
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TRUSTEE’S REPLY IN SUPPORT OF MOTION FOR
ORDER HOLDING ROSS HANSEN IN CONTEMPT FOR
VIOLATION OF THE AUTOMATIC STAY - 6

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CERTIFICATE OF SERVICE

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The undersigned declares as follows:

That she is a practice assistant in the law firm of K&L Gates LLP, and on August 2, 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 2nd day of August, 2016 at Seattle, Washington.

/s/ Denise A. Evans
Denise A. Evans