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Honorable Christopher M. Alston  
Chapter 11  
Hearing Location: Seattle, Rm. 7206  
Hearing Date: Friday, September 2, 2016  
Hearing Time: 9:30 a.m.  
Response Date: August 26, 2016

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

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

Case No. 16-11767-CMA

**TRUSTEE'S MOTION FOR ORDER  
HOLDING ROSS HANSEN IN CONTEMPT  
AND FOR AWARD OF SANCTIONS**

13 Mark Calvert (the "Trustee"), Chapter 11 Trustee for Northwest Territorial Mint, LLC  
14 ("NWTM" or the "Debtor"), files this motion (the "Motion") seeking an order holding Ross Hansen  
15 in contempt for his failure to comply with this Court's order, entered April 26, 2016, compelling  
16 production of documents pursuant to Bankruptcy Rule 2014, and further requests an award of  
17 sanctions in the amount of \$5,000.

18 **I. FACTS**

19 1. On April 25, 2016, the Trustee filed his motion pursuant to Fed. R. Bankr. P. 2004  
20 (the "2004 Motion") seeking an order compelling Ross Hansen to, among other things, produce  
21 certain documents. On April 26, the Court entered an Order Granting Motion for Examination of  
22 Ross B. Hansen Pursuant to Rule 2004 and Subpoenas Pursuant to Rule 9016 (the "2004 Order").  
23 Pursuant to the 2004 Order, Ross Hansen was ordered to produce several categories of documents  
24 to the Trustee, including "[m]onthly account statements for all bank accounts or investment  
25 accounts in which Ross B. Hansen holds an interest" and "[m]onthly account statement for all credit  
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TRUSTEE'S MOTION FOR ORDER HOLDING ROSS  
HANSEN IN CONTEMPT AND AWARD OF  
SANCTIONS - 1

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1 cards in which Ross B. Hansen holds an interest.” The 2004 Order was served on Mr. Hansen’s  
2 counsel.

3 On June 3, 2016, the Court held a status conference at which numerous issues, including  
4 discovery issues, were discussed. At that time, Ross Hansen had produced no documents to the  
5 Trustee. Ragan Powers appeared at the June 3, 2016 hearing on behalf of Ross Hansen, and  
6 informed the Court that Ross Hansen believed that copies of his bank statements were held at  
7 NWTM’s offices. At that conference, the Court directed Mr. Hansen to comply with the 2004 Order  
8 by the following Friday (June 10, 2016).

9 On June 10, 2016, Ross Hansen produced a small amount of documents to the Trustee. His  
10 production did not include bank statements or statements for any investment accounts. Based on Mr.  
11 Hansen’s representation that bank statement copies were located in the legal files in NWTM’s  
12 offices (having apparently been produced in the litigation with Bradley Cohen), the Trustee directed  
13 NWTM employee Annette Trunkett to search for the records. Ultimately, Annette Trunkett was able  
14 to locate bank statements for Mr. Hansen’s account at Columbia Bank dating from January, 2010  
15 through October, 2015, as well as a single statement from September, 2006 (collectively, the Bank  
16 Statements”). A review of the Bank Statements shows that Mr. Hansen maintained investment  
17 accounts at M.F. Global, Inc. and R.J. O’Brien & Associates, LLC (the “Investment Accounts”), and  
18 that over the period covered by the Bank Statements, Mr. Hansen wired to, and received wires from,  
19 these entities totaling several million dollars.

20 On July 22, 2016, the Trustee’s counsel contacted Mr. Hansen’s counsel, via email, and  
21 requested that Mr. Hansen confirm that the bank account at Columbia Bank was his only bank  
22 account and that no statements earlier than January, 2010 are available. The Trustee’s counsel also  
23 requested that Mr. Hansen produce account statements from October, 2015 to the present as well as  
24 statements from the Investment Accounts. Attached to the Declaration of David C. Neu is the  
25 correspondence with Mr. Hansen’s attorney regarding the production. To this date, Mr. Hansen has  
26 not produced any additional documents, nor has he confirmed whether he has disclosed all accounts.

TRUSTEE’S MOTION FOR ORDER HOLDING ROSS  
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1 **II. EVIDENCE RELIED UPON**

2 This Motion relies on the Declarations of David C. Neu and Annette Trunkett.

3 **III. ARGUMENT**

4 The Court has the authority under 11 U.S.C. §105(a) to use its contempt power to remedy a  
5 violation of a specific order. *In re Dyer*, 322 F.3d 1178, 1196 (9th Cir. 2003); *In re Bennett*, 298  
6 F.3d 1059, 1069 (9th Cir. 2002) (“[t]he standard for finding a party in civil contempt is well settled:  
7 The moving party has the burden of showing by clear and convincing evidence that the contemnors  
8 violated a specific and definite order of the court. The burden then shifts to the contemnors to  
9 demonstrate why they were unable to comply”). The court's contempt authority under § 105(a)  
10 allows for civil sanctions as the appropriate remedy. *Dyer*, 322 F.3d at 1192 (considering contempt  
11 sanctions in context of stay violation). Civil sanctions must either be compensatory or designed to  
12 coerce compliance. *Id.*

13 It is beyond dispute that Ross Hansen has violated the 2004 Order by failing to produce bank  
14 statements from October, 2015 to the present, and statements for the Investment Accounts.<sup>1</sup> It has  
15 been over three months since the 2004 Order was entered. Mr. Hansen could have simply requested  
16 account statements, which are likely available online, and produced them to the Trustee. Instead, he  
17 has engaged in game playing - asserting that if the Trustee only has his employees look a little harder  
18 the statements might be found somewhere in NWTM’s records. The Trustee has undertaken  
19 reasonable efforts to ensure that the statements are not in the NWTM offices and has informed Mr.  
20 Hansen’s counsel of that fact. Still, Mr. Hansen will not commit to producing the missing  
21 statements. Moreover, Mr. Hansen has not produced statements for any credit card accounts which  
22 he might have, or at a minimum confirmed that he maintains no credit cards.

23 Efforts to obtain a commitment from Mr. Hansen to comply with the 2004 Order have proven  
24 fruitless as evidenced by the email exchange between the Trustee’s counsel and Mr. Hansen’s

25 <sup>1</sup> Documents are in a party’s control if it has the legal right to obtain such documents on demand.  
26 *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 counsel. Accordingly, the Court should exercise its contempt powers under 11 U.S.C. §105(a). The  
2 Trustee believes that \$5,000 is reasonable compensation for the expense of bringing the current  
3 motion, and reserves the right to seek additional sanctions in the event Mr. Hansen continues to  
4 refuse to comply with the 2004 Order.

5 DATED this 4th day of August, 2016.

6 K&L GATES LLP

7  
8 By /s/ David C. Neu  
9 Michael J. Gearin, WSBA #20982  
10 David C. Neu, WSBA #33143  
11 Brian T. Peterson, WSBA #42088  
12 Attorneys for Mark Calvert, Chapter 11 Trustee  
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TRUSTEE'S MOTION FOR ORDER HOLDING ROSS  
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**CERTIFICATE OF SERVICE**

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The undersigned declares as follows:

That she is a paralegal in the law firm of K&L Gates LLP, and on August 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 August, 2016 at Seattle, Washington.

/s/ Denise A. Evans  
Denise A. Evans

TRUSTEE'S MOTION FOR ORDER HOLDING ROSS  
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