

Honorable Christopher M. Alston
Chapter 11
Date of Hearing: January 04, 2018
Time of Hearing: 9:30 a.m.
Response Due: December 28, 2017

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHWEST TERRITORIAL MINT, LLC,

No. 16-11767-CMA

Debtor.

**MOTION TO
COMPEL ABANDONMENT**

Relief Requested: Diane Erdmann, an interested party, moves the Bankruptcy Court pursuant to 11 U.S.C. 554(b) and FRBP 6007(b) for an Order to Compel the Trustee's Abandonment of certain precious metals, coins and other items of personal property owned by her and in the Trustee's possession following their wrongful seizure by the King County Sheriff on April 27, 2016.

Support: This Motion is supported by the Declaration of Diane Erdmann and the records and files herein.

Basis: Diane Erdmann is an interested party, within the meaning of 11 U.S.C. § 101. She shares a residence with Ross B. Hansen. He is a Judgment Debtor in *Bradley Stephen Cohen, et. al. vs. Ross B. Hansen, et. al.*, King County cause number 16-2-05611-3 KNT. The Judgment creditor obtained permission for the Sheriff to execute on a writ for the Judgment Debtor's personal property. Over her objection, the King County Sheriff seized her personal

1 property on April 27, 2016, when executing a writ in the lawsuit. State law allows a summary
2 proceeding to quiet title and release Ms. Erdmann's property.

3 Ms. Erdmann sought Bankruptcy Court guidance on the efficacy of the creditor's
4 continuing litigation in state court by way of her *Motion to Determine Applicability of the*
5 *Automatic Stay* relating to the property seized (DKT #337). At the time, the Trustee was
6 asserting that the property seized may be property of the estate. On June 22, 2016, the
7 Bankruptcy Court Ordered that the automatic stay applied and that if had jurisdiction over
8 controversies of title and ownership of property of the estate (DKT#435).

9 The assets in controversy have negligible value to the estate in comparison to historic
10 legal fees and costs incurred in litigation with Ms. Erdmann, who intends to seek judicial
11 relief to quiet title and restoration of possession of her assets. She seeks an order of
12 abandonment, in which case she may seek such relief in state court. Absent abandonment, she
13 will file an adversary proceeding to confirm her ownership and seek restitution of possession.

14 **Analysis:** On the request of a party-in-interest and after notice and hearing, the Bankruptcy
15 Court may order the abandonment of any property of the estate that is of inconsequential
16 value and benefit to the estate. *See* 11 U.S.C. § 554(b). Additionally, where the claims against
17 the property exceed its value, the personal property identified should be abandoned:

18 It is well settled that the trustee is not required to administer property burdened
19 with liens or mortgages, and he may abandon the same to secured creditors; in
20 fact, it is his duty to do so whenever it is certain that the general estate will
21 derive no benefit from the sale of such property. A trustee is not bound to
22 administer property subject to liens to such an extent that it is apparent that
23 nothing can be realized therefrom for the benefit of the unsecured creditors.

1 *In re Menzies*, 60 F.2d 1064, 1067 (D. Ariz. 1932) (citations omitted). Proof that the estate
2 lacks equity in property is a prima facie case that the property is of inconsequential value and
3 benefit to the estate. *See, In re Paoletta*, 79 B.R. 607, 609-10 (Bankr. E.D. Pa. 1987).

4 **Conclusion:** For the reasons noted, the Bankruptcy Court should enter an order Compelling
5 abandonment of Ms. Erdmann's personal property.

6
7 Respectfully submitted this 7th day of December, 2017.

8 SMITH ALLING, P.S.

9 /s/ Thomas P. Quinlan

10 Thomas P. Quinlan, WSBA #21325
11 Attorney for Diane Erdmann