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Honorable Christopher M. Alston
Chapter 11

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

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

Bankruptcy Case No. 16-11767-CMA

**AMENDED APPELLANT'S STATEMENT
OF ISSUES AND DESIGNATION OF
RECORD**

Internal Appeal No.: 16-S016

District Court Case No.: 16-CV-1323-RSL

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17 Pursuant to Bankruptcy Rule 8009, Appellant Mark Calvert, as Trustee for Northwest
18 Territorial Mint, LLC (the "Trustee"), makes the following designation of record and statement of
19 issues on appeal:

20 **I. DESIGNATION OF RECORD**

21 The following materials, inclusive of all attachments and exhibits, are designated by
22 Appellant to be included in the record for the appeal to the United States District Court for the
23 Western District of Washington:
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AMENDED APPELLANT'S STATEMENT OF ISSUES
AND DESIGNATION OF RECORD - 1

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DESIGNATED BANKRUPTCY COURT MATERIALS

Bankruptcy Docket No. for Case No. 16-11767-CMA	Date of Filing	Title of Document
76	4/18/16	Motion to Withdraw as Attorney for Debtor... Filed by J Todd Tracy on behalf of Northwest Territorial Mint LLC (Attachments: # 1 Exhibit Engagement Letter # 2 Proposed Order) (Tracy, J) (Entered: 04/18/2016 at 17:26:11)
77	4/18/16	Declaration of J. Todd Tracy in Support of Motion for Authority to Withdraw as Attorney for Debtor (Related document(s)76 Motion to Withdraw as Attorney)... Filed by J Todd Tracy on behalf of Northwest Territorial Mint LLC. (Attachments: # 1 Exhibit Engagement Letter) (Tracy, J) (Entered: 04/18/2016 at 17:27:43)
78	4/18/16	Motion to Shorten Time and Limit Notice on Motion to Withdraw as Attorney for Debtor.. Filed by J Todd Tracy on behalf of Northwest Territorial Mint LLC (Tracy, J) (Entered: 04/18/2016 at 17:29:02)
86	4/20/16	Ex Parte ORDER Shortening Time and Limiting Notice on Motion to Withdraw as Attorney for Debtor (Related document(s)76 Motion to Withdraw as Attorney, 78 Motion to Shorten Time). The Hearing date is set for 5/6/2016 at 09:30 AM at Judge Alston's Courtroom, U.S. Courthouse, Room 7206.. (RQC) (Entered: 04/20/2016 at 14:40:48)
87	4/20/16	Declaration of J. Todd Tracy in Support of Ex Parte Motion Shortening Time and Limiting Notice for Motion for Authority to Withdraw as Attorney for Debtor (Related document(s)76 Motion to Withdraw as Attorney, 78 Motion to Shorten Time)... Filed by J Todd Tracy on behalf of Northwest Territorial Mint LLC. (Tracy, J) (Entered: 04/20/2016 at 15:33:09)
89	4/20/16	Trustee's Response to Motion for Authority to Withdraw as Attorney for Debtor (Related document(s)76 Motion to Withdraw as Attorney). Proof of Service. Filed by Michael J Gearin on behalf of Mark Thomas Calvert. (Gearin, Michael) (Entered: 04/20/2016 at 16:13:00)
90	4/21/16	Notice of Hearing on Motion to Withdraw as Attorney for Debtor (Related document(s)76 Motion to Withdraw as Attorney). Filed by J Todd Tracy on behalf of Northwest Territorial Mint LLC. (Tracy, J) (Entered: 04/21/2016 at 11:07:00)
162	5/2/16	Response to (Response of the Official Unsecured Creditors' Committee to Motion for Authority to Withdraw as Counsel to the Debtor) (Related document(s)76 Motion to Withdraw as Attorney, 78 Motion to Shorten Time, 90 Hearing Notice)... Filed by Mark D Northrup on behalf of Official Unsecured Creditors Committee. (Northrup, Mark) (Entered: 05/02/2016 at 10:56:36)

Bankruptcy Docket No. for Case No. 16- 11767-CMA	Date of Filing	Title of Document
164	5/2/16	Response to Motion to Withdraw (Related document(s)76 Motion to Withdraw as Attorney, 78 Motion to Shorten Time)... Filed by Daniel J Bugbee of DBS Law on behalf of Diane Erdmann. (Bugbee, Daniel) (Entered: 05/02/2016 at 16:23:56)
165	5/2/16	Declaration of Diane Erdmann in Support of Response to Motion to Withdraw (Related document(s)164 Response)... Filed by Daniel J Bugbee of DBS Law on behalf of Diane Erdmann. (Bugbee, Daniel) (Entered: 05/02/2016 at 16:25:57)
167	5/2/16	Supplemental Response to Motion for Authority to Withdraw as Attorney for Debtor (Related document(s)76 Motion to Withdraw as Attorney, 89 Response). Proof of Service. Filed by David C Neu on behalf of Mark Thomas Calvert. (Neu, David) (Entered: 05/02/2016 at 17:17:09)
182	5/4/16	Trustee's Reply to Diane Erdmann's Response to Motion for Authority to Withdraw as Attorney for Debtor (Related document(s)76 Motion to Withdraw as Attorney, 89 Response, 164 Response, 165 Declaration, 167 Response). Proof of Service. Filed by Michael J Gearin on behalf of Mark Thomas Calvert. (Gearin, Michael) (Entered: 05/04/2016 at 16:14:36)
183	5/4/16	Declaration of Dave Huffman in Support of Trustee's Reply to Diane Erdmann's Response to Motion for Authority to Withdraw as Attorney for Debto (Related document(s)76 Motion to Withdraw as Attorney, 89 Response, 164 Response, 165 Declaration, 167 Response, 182 Reply). Proof of Service. Filed by Michael J Gearin on behalf of Mark Thomas Calvert. (Gearin, Michael) (Entered: 05/04/2016 at 16:18:12)
	5/6/16	Minutes. Hearing Held. Appearances: Dan Bugbee, Todd Tracy, Mike Gearin, Mark Northrup. Scheduling order setting evidentiary hearing to be issued by chambers. Evidentiary hearing set to determine ownership of funds held in trust by Todd Tracy and the extent of the estate's interest in the funds. (related document(s): 86 Scheduling Order) Evidentiary Hearing is scheduled for 06/22/2016 at 09:30 AM at Judge Alston's Courtroom, U.S. Courthouse, Room 7206. (MJB) (Entered: 05/13/2016 at 09:07:33)
240	5/12/16	ORDER Setting Deadlines/Evidentiary Hearing. Evidentiary hearing to determine ownership of funds held in trust by Todd Tracy and the extent of the estate's interest in the funds. Hearing scheduled for 6/22/2016 at 09:30 AM at Judge Alston's Courtroom, U.S. Courthouse, Room 7206. (SLA) Modified on 5/13/2016 to add additional information. (Brannon, Morgan). (Entered: 05/12/2016 at 13:56:36)
409	6/15/16	Trustee's Brief for Evidentiary Hearing Scheduled for June 22, 2016. Filed by David C Neu on behalf of Mark Thomas Calvert. (Related document(s)240 Order Setting Deadlines or Evidentiary Hearing). (Neu, David) (Entered: 06/15/2016 at 16:39:12)
410	6/15/16	Brief of Diane Erdmann for Evidentiary Hearing. Filed by Dominique R Scalia on behalf of Diane Erdmann. (Related document(s)240 Order Setting Deadlines or Evidentiary Hearing). (Scalia, Dominique) (Entered: 06/15/2016 at 22:49:33)

AMENDED APPELLANT'S STATEMENT OF ISSUES
AND DESIGNATION OF RECORD - 3

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Bankruptcy Docket No. for Case No. 16- 11767-CMA	Date of Filing	Title of Document
411	6/16/16	Trustee's Brief Corrected Trial Brief for Evidentiary Hearing Scheduled for June 22, 2016. Filed by David C Neu on behalf of Mark Thomas Calvert. (Related document(s)240 Order Setting Deadlines or Evidentiary Hearing). (Neu, David) (Entered: 06/16/2016 at 10:25:09)
413	6/17/16	Letter From Chambers To Counsel Regarding Evidentiary Hearing Exhibits. The Hearing date is set for 6/21/2016 at 02:00 PM at Telephonically. (MJB) (Entered: 06/17/2016 at 14:39:30)
415	6/20/16	Trustee's Reply in Support of Trial Brief for Evidentiary Hearing Scheduled fro June 22, 2016 (Related document(s)240 Order Setting Deadlines or Evidentiary Hearing, 411 Brief)... Filed by David C Neu on behalf of Mark Thomas Calvert. (Neu, David) (Entered: 06/20/2016 at 18:01:07)
418	6/20/16	Reply of Diane Erdmann to Trustee's Trial Brief (Related document(s)409 Brief). Proof of Service. Filed by Dominique R Scalia on behalf of Diane Erdmann. (Scalia, Dominique) (Entered: 06/20/2016 at 19:45:47)
419	6/20/16	Stipulation by and between Trustee and Diane Erdmann to Allow Telephonic Testimony. Filed by Dominique R Scalia on behalf of Diane Erdmann. (Attachments: # 1 Proposed Order Stipulated Order to Allow Telephonic Testimony) (Scalia, Dominique) (Entered: 06/20/2016 at 19:52:03)
429	6/21/16	Agreed ORDER Allowing Telephonic Testimony (Related document(s)419 Stipulation). (RQC) (Entered: 06/21/2016 at 14:43:06)
436	6/22/16	Pretrial ORDER (Related document(s)240 Order Setting Deadlines or Evidentiary Hearing). (RQC) (Entered: 06/22/2016 at 14:01:46)
	6/22/16	Minutes. Hearing Held. Appearances: David Neu, Daniel Bugbee, Dominique Scalia. Evidentiary hearing held. Matter continued for an additional day. (related document(s): 240 Order Setting Deadlines or Evidentiary Hearing) Trial is scheduled for 07/06/2016 at 09:30 AM at Judge Alston's Courtroom, U.S. Courthouse, Room 7206. (MJB) (Entered: 06/23/2016 at 09:30:08)
	6/29/16	Audio CD Request. Hearing Date and Time: 06/22/16 at 9:30 am.. Other Info: PLEASE RUSH. Contact: Binee Gould 206 370 5815... Please expedite, please call when ready. Filed by David C Neu on behalf of Mark Thomas Calvert. (Neu, David) (Entered: 06/29/2016 at 16:35:27)
	7/6/16	Minutes. Evidentiary Hearing Held. Appearances: Daniel Bugbee and Dominique Scalia for Diane Erdmann, David Neu for Mark Calvert. Exhibits Admitted: E1-E3, E6, E8-E11, T1, T4-T8, T11, T19, T23, T25, T27, T31-T32, T39, T42, T44, T46, T48, T57-T58. Deposition of David Huffman published in open court. Witnesses sworn/testified: Diane Erdmann, Eileen Dbornekodic, Ross Hansen, Rhonda Yaskus, Patrick Ward, Paul Wagner, David Huffman, Derrin Tallman, Annette Trunkett, Erin Robinson, Todd Tracy.Ruling: Matter taken under advisement. (related document(s): 240 Order Setting Deadlines or Evidentiary Hearing) (MJB) (Entered: 08/31/2016 at 08:46:31)

AMENDED APPELLANT'S STATEMENT OF ISSUES
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Bankruptcy Docket No. for Case No. 16-11767-CMA	Date of Filing	Title of Document
	7/7/16	Audio CD Request. Hearing Date and Time: 07/06/16 at 9:30 an.. Contact: Denise Evans 206 370 5761... Please expedite, please call when ready CD will be picked up. Filed by David C Neu on behalf of Mark Thomas Calvert. (Neu, David) (Entered: 07/07/2016 at 13:50:03)
580	8/4/16	Memorandum Opinion and Further ORDER on Motion for Authority to Withdraw as Attorney for Debtor (Related document(s)76 Motion to Withdraw as Attorney). (RQC) (Entered: 08/04/2016 at 13:58:15)
660	9/1/16	Transcript regarding Hearing Held 06/22/2016 RE: Evidentiary Hearing, Volume 1. Remote electronic access to the transcript is restricted until 11/30/2016. The transcript may be viewed at the Bankruptcy Court Clerk's Office. Contact the Court Reporter/Transcriber Shar L. Wheeler for a copy at, Telephone number 425.433.8064 or email at AhearnAndAssoc@comcast.net.. Notice of Intent to Request Redaction Deadline Due By 9/8/2016. Redaction Request Due By 09/22/2016. Redacted Transcript Submission Due By 10/3/2016. Transcript access will be restricted through 11/30/2016. (Transcriber - Wheeler, Shari) (Entered: 09/01/2016 at 11:53:16)
661	9/1/16	Transcript regarding Hearing Held 07/06/2016 RE: Evidentiary Hearing, Volume 2. Remote electronic access to the transcript is restricted until 11/30/2016. The transcript may be viewed at the Bankruptcy Court Clerk's Office. Contact the Court Reporter/Transcriber Shari L. Wheeler for a copy at, Telephone number 425.433.8064 or email at AhearnAndAssoc@comcast.net.. Notice of Intent to Request Redaction Deadline Due By 9/8/2016. Redaction Request Due By 09/22/2016. Redacted Transcript Submission Due By 10/3/2016. Transcript access will be restricted through 11/30/2016. (Transcriber - Wheeler, Shari) (Entered: 09/01/2016 at 11:55:27)

DESIGNATED EXHIBITS

Exhibits Admitted: T1, T4-T8, T11, T19, T23, T25, T27, T31-T32, T39, T42, T44, T46, T48, T57-T58.

II. STATEMENT OF ISSUE

Appellant asks that the United States District Court, Western District of Washington address the following issues on appeal:

- 1) Did the Bankruptcy Court err as a matter of law when it failed to apply the correct preponderance of the evidence standard of proof to its determination that Diane Erdmann satisfied her burden of establishing an interest in the Deposit Funds?

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2) Did the Bankruptcy Court err as a matter of law when it failed to apply the correct preponderance of the evidence standard of proof to its determination that the Trustee failed to satisfy his burden of establishing an interest in the Deposit Funds?

3) Did the Bankruptcy Court err in its finding that “there is no evidence that the \$50,000 wired by Ms. Erdmann was taken from the Vault . . . [and]. . . no evidence that any the items [sic] removed by Ms. Erdmann and Ms. [sic] Hansen from the Mint in late March ended up in the Black Bag” when there was substantial evidence supporting both facts?

4) Did the Bankruptcy Court err in its finding that the Deposit Fund belongs to Diane Erdmann?

DATED this 1st day of September, 2016.

K&L GATES LLP

By /s/ David C. Neu
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Brian T. Peterson, WSBA #42088
Attorneys for Mark Calvert, Chapter 11 Trustee