

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The Honorable Karen A. Overstreet
Hearing Date: March 14, 2008
Hearing Time: 9:30 a.m.
Response Date: March 7, 2008
Location: Seattle
Chapter 7

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re:

ALEN JANISCH,

Debtor.

No. 07-15620

NOTICE OF MOTION TO COMPEL
DEBTOR TO VACATE PROPERTY AND
DIRECTING U.S. MARSHAL TO
REMOVE DEBTOR

TO: Clerk of the Court
AND TO: The Debtor, Creditors and Parties In Interest

PLEASE TAKE NOTICE that the Chapter 7 Trustee has filed an Motion to Compel Debtor to Vacate Property and Directing U.S. Marshal to Remove Debtor, and this matter IS SET FOR HEARING as follows:

JUDGE: Karen A. Overstreet DATE: March 14, 2008
PLACE: United States Courthouse
700 Stewart Street TIME: 9:30 a.m.
Seattle, WA 98101
Courtroom No. 7206

IF YOU OPPOSE the Motion, you must file your written response with the Court Clerk, serve two copies on the Judge’s chambers and deliver copies on the undersigned not later than the response date, which is March 7, 2008. If no response is timely filed and served, the Court may, in its discretion, grant the Motion prior to the hearing, without further notice, and strike the hearing.

DATED this 26th day of February, 2008.

/s/ Kathryn A. Ellis
Kathryn A. Ellis, WSBA #14333
Attorney for Trustee

C:\Shared\KAE\Dox\Janisch\compel_vacate_not.wpd

KATHRYN A. ELLIS, ESQ.
600 Stewart St
Suite 620
Seattle, WA 98101
(206) 682-5002

The Honorable Karen A. Overstreet
Hearing Date: March 14, 2008
Hearing Time: 9:30 a.m.
Response Date: March 7, 2008
Location: Seattle
Chapter 7

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re:

ALEN JANISCH,

Debtor.

No. 07-15620

MOTION TO COMPEL DEBTOR TO
VACATE PROPERTY AND DIRECTING
U.S. MARSHAL TO REMOVE DEBTOR

COMES NOW Edmund J. Wood in his capacity as the duly appointed Trustee in the above-captioned bankruptcy case (“Trustee”), by and through the undersigned attorney, moves the Court as follows:

I. RELIEF REQUESTED

- 1.1 For an order compelling the debtor to vacate the real property located at 13011 Meridian Ave N, Seattle, WA; and
- 1.2 For an order authorizing the U.S. Marshal Service to remove the debtor should they fail to vacate.

II. FACTS

The debtor filed the present Chapter 7 Bankruptcy Petition on November 23, 2007. The first § 341 Meeting of Creditors was scheduled for December 27, 2007. The debtor did not appear at that time. The Trustee continued the Meeting of Creditors to February 14, 2008 at 2:30 p.m. Initially Mr. Janisch declared, in a sworn statement on January 3, 2008, that he would not be able to attend the first Meeting of Creditors but would be available the week of February 11th to “participate in my bankruptcy”. Notwithstanding such representations, the debtor failed to

1 appear at the 341 Meeting of Creditors on February 14th. The Trustee has continued the Meeting
2 of Creditors again to April 3, 2008 at 2:30 p.m.

3 Since the debtor's release from Harborview Hospital, he has returned to the premises
4 located at 13011 Meridian Ave N, Seattle, WA 98123, caused the premises to be in a great state
5 of filth, rendering the premises not properly the subject of a listing for sale. In addition,
6 according to Accubank Mortgage, the debtor has failed to make a loan payment since June 2007.
7 See Declaration of John Glessner.
8

9 **III. SUMMARY**

10 Based on the above, it is requested that the Court order: (1) directing debtor Alen Janisch
11 and all occupants to vacate the property located at 13011 Meridian Ave N, Seattle, WA, and (2)
12 if the debtor has not vacated the property located at 13011 Meridian Ave N, Seattle, WA by
13 March 31, 2008, directing the U.S. Marshal Service to remove Mr. Janisch and any other
14 occupants from the 13011 property.
15

16 DATED this 26th day of February, 2008.

17
18 /s/ Kathryn A. Ellis
19 Kathryn A. Ellis, WSBA #14333
20 Attorney for Trustee

21 C:\Shared\KAE\Doc\Janisch\compel_vacate_mot.wpd

The Honorable Karen A. Overstreet
Hearing Date: March 14, 2008
Hearing Time: 9:30 a.m.
Response Date: March 7, 2008
Location: Seattle
Chapter 7

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re:

ALEN JANISCH,

Debtor.

No. 07-15620

DECLARATION OF JOHN GLESSNER
RE: TRUSTEE'S MOTION TO COMPEL
DEBTOR TO VACATE PROPERTY AND
DIRECTING U.S. MARSHAL TO
REMOVE DEBTOR

KATHRYN A. ELLIS, after being first duly sworn upon oath, deposes and says:

1. I am the real estate agent for the Chapter 7 Trustee, Edmund J. Wood, herein, have testimonial knowledge of the facts set forth in this declaration and am competent to testify thereto.

2. I am the real estate agent that has been appointed for the listing of the property located at 13011 Meridian Ave N, Seattle, WA for sale. The current occupant of the property, Peter Graf, provided access for my initial inspection. I understood that the debtor was in a "detoxification program" and was to be released in early February. Apparently Mr. Janisch was released in early February and the occupant, Mr. Graf, contacted me on or about February 11th, advised me that "he couldn't take it anymore" and that he was moving out immediately because the place was "trashed" and filthy, the debtor was always present and "hanging out all the time" and "drunk all the time". On the 15th day of February I inspected the premises and found dirty dishes in the sink, empty food containers all over the premises, the debtor in his bathrobe and the

**DECLARATION OF JOHN GLESSNER RE: MOTION
TO COMPEL DEBTOR TO VACATE PROPERTY AND
DIRECTING U.S. MARSHAL TO REMOVE DEBTOR - 1**

KATHRYN A. ELLIS, ESQ.
600 Stewart St
Suite 620
Seattle, WA 98101
(206) 682-5002

1 premises smelled horribly, like stale cigarettes and old booze. The premises were not in any
2 condition for a listing and the property was removed from the Multiple Listing Service pending
3 hearing on this motion.

4
5 I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE
6 OF WASHINGTON THAT THE FOREGOING STATEMENT IS BOTH TRUE AND
CORRECT.

7 Dated this 26th day of February, 2008 at Lynnwood, Washington.

8
9 /s/ John Glessner
John Glessner

10 C:\Shared\KAE\Dox\Janisch\compel_vacate_dec.wpd