

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF CONNECTICUT  
HARTFORD DIVISION

In re:	:	Chapter 7
Sheri Speer,	:	Case No. 14-21007
<i>Debtor</i>	:	
_____	:	
Dr. Michael Teiger,	:	
SLS Heating, LLC,	:	
Elizabeth Alina as trustee for Clipper	:	
Realty Trust,	:	
<i>Movants,</i>	:	
v.	:	
Sheri Speer,	:	
<i>Respondent</i>	:	
_____	:	Re: ECF No. 632, 676

Order Finding Sheri Speer in Contempt of Order to Complete Exam [ECF No. 676] and Imposing Sanction

After notice and a hearing held on August 27, 2015, to consider the motion of creditors Dr. Michael Teiger, SLS Heating, LLC, and Elizabeth Alina, trustee for Clipper Realty Trust (the “Moving Creditors”), for sanctions (the “Sanctions Motion”) against debtor Sheri Speer (the “Debtor”), ECF No. 632, and upon consideration of the Debtor’s response to the Sanctions Motion, ECF No. 647, the Debtor’s “notices of unavailability,” ECF Nos. 646; 701; 794; 843; 885; 906; 928; 989, documents submitted in support of the notices of unavailability, ECF Nos. 818; 905; 1012, and the Court’s prior order granting the Sanctions Motion in part dated July 6, 2015 (the “Order to Complete Exam”), ECF No. 676, the Court hereby finds the Debtor to be in contempt of the Order to Complete Exam and imposes sanctions as discussed in greater detail below.

I. Jurisdiction

The Court has jurisdiction over the Sanctions Motion in this proceeding pursuant to 28 U.S.C. §§ 1334(b) and 157(a) and (b). See *a/so* D. Conn. Standing Administrative Order # 2 dated September 21, 1984 (Daly, C.J.). This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(1) and 157(b)(2)(A).

II. Findings of Fact

In December 2014, the Court granted the Moving Creditors' motion to conduct a Fed.R.Bankr.P. 2004 examination ("Rule 2004 Motion"; the examination is the "Rule 2004 Examination") of the Debtor, ordering that, "attendance, and the production of documents which pertain to all aspects of Debtor's property, finances, and other issues germane to Debtor's bankruptcy schedules, [are to be] . . . compelled in the manner provided in Fed.R.Bankr.P. 9016, see Fed.R.Bankr.P. 2004(c), pursuant to which the Debtor would also be required to produce certain financial records." ECF No. 251 (the "Rule 2004 Order"). The Debtor filed a motion to reconsider the Rule 2004 Order; the Court denied the motion. ECF Nos. 255; 319.

In January 2015, the Moving Creditors served the Debtor with a subpoena *duces tecum* (the "Subpoena") directing the Debtor to appear for the Rule 2004 Examination. See ECF No. 342; *In re Speer*, 3:15cv00646 (RNC); Doc. Nos. 13; 13-1. In March 2015, the Debtor appeared at the office of counsel for the Moving Creditors and participated in an abbreviated Rule 2004 Examination for a few hours, promising to return on another date to complete the discovery process by sitting for a continued Rule 2004 Examination. See ECF No. 676 at 2.

On April 6, 2015, the Debtor filed a motion to quash the Subpoena, and on April 9, 2015 she filed a motion to continue the Rule 2004 Examination until the Court decided the motion to quash and a motion to dismiss the chapter 11 case she had filed on April 1, 2015. ECF Nos. 481, 488, 494. At a hearing on April 23, 2015, the Debtor conceded she had not completed the Rule 2004 Examination nor produced all responsive documents required by the Subpoena. ECF No. 656 at 38-41.

On May 14, 2015, the Debtor asked the Court to mark the motion to quash “off” the Court’s calendar (i.e., to no longer consider the motion as she was not pursuing it). ECF No. 641 at 6-11. On May 21, 2015, the Debtor filed a motion for a protective order, seeking to limit the scope of discovery by another creditor, Seaport Capital Partners, LLC (“Seaport”), to matters relating to the Debtor individually, so that document production and testimony regarding the Debtor’s wholly owned limited liability companies or business enterprises would not be subject to discovery. ECF No. 590.

A hearing on, *inter alia*, the motion for a protective order was scheduled for June 4, 2015. ECF Nos. 599 and 617. During the hearing, the Debtor again conceded that she had not complied with the Subpoena, but agreed to produce the remainder of outstanding documents and to complete the Rule 2004 Examination by June 9, 2015. ECF No. 639 at 6-44. The next day, on June 5, 2015, the Debtor filed with the District Court a motion for an emergency stay of the bankruptcy proceedings pending appeal, and in particular, a stay of her impending Rule 2004 Examination, attaching a copy of the Subpoena as an exhibit. *In re Speer*, 3:15cv00646 (RNC); Docket Nos. 13; 13-1.

The Debtor did not appear for the continued Rule 2004 Examination on June 9, 2015, as she agreed to do. ECF No. 639 at 6-44. On June 11, 2015, the Moving

Creditors filed the instant Sanctions Motion seeking an order directing the Debtor to reimburse them for attorneys' fees or an order compelling the Debtor to provide the remainder of outstanding documents and to complete the Rule 2004 Examination pursuant to the Subpoena. ECF No. 632. The Court set a hearing to consider the Sanctions Motion for June 17, 2015. ECF No. 633.

On June 15, 2015, the Court entered an order denying the Debtor's motion for a protective order regarding the Subpoena. ECF Nos. 590 and 643. The next day, June 16, 2015, the Debtor filed a "Notice of Unavailability," alleging that she had undergone dental surgery on that date, that "over the past week to 10 days" she had fallen ill with "an acute medical condition," and that she would not appear at the hearing scheduled for June 17, 2015. ECF No. 646. The Debtor further alleged that she was in severe pain and on heavy pain medications. ECF No. 646.

The same day, June 16, 2015, the Debtor filed an affidavit in opposition to the Sanctions Motion. ECF No. 648. The Debtor alleged in the affidavit that she had fallen ill with "an acute medical condition" that caused her to experience "various flu-like symptoms" over the "past week to 10 days" and that her treating physicians were "engaged in the diagnosis process." ECF No. 648. She stated she was unable to appear for the June 9, 2015 Rule 2004 Examination but that she would "submit a written physician statement setting forth the nature of [her] illness and why it prevented [her] from attending the 2004 examination once the diagnosis process [was] complete." ECF No. 648. The Debtor did not include any verification of her claim that she had undergone dental surgery.

On June 18, 2015, the Debtor sent an email to the Courtroom Deputy, stating that a doctor had “ordered a three month leave because of [the Debtor’s] . . . state.” ECF No. 818-1 at 1. It also stated that the Debtor went to the emergency room where a doctor referred her to an orthopedic surgeon to correct “three bulged discs in [her] neck.” ECF No. 818-1 at 1. The Debtor submitted two documents for *in camera* review to the Courtroom Deputy via email. Neither of the documents substantiated the dental surgery claim made in the Notice of Unavailability. ECF Nos. 646; 818-1; 818-2; 818-3.

On the basis of the Notice of Unavailability, the hearing to consider the Sanctions Motion, as well as other matters, was continued to July 2, 2015. See unnumbered docket entries dated 06/17/2015. The Courtroom Deputy originally sought to continue the hearing to June 19, 2015 and advised the Debtor that she could participate by telephone, but the Debtor reported she would not able to participate in a hearing on that date, either in person or by telephone. ECF Nos. 668 at 2; 676 at 4-5; 685 at 00:38:30 – 00:40:00.<sup>1</sup> On July 1, 2015, at approximately 5:10 p.m., the Debtor emailed the Courtroom Deputy and advised her that she would be unavailable on July 2, 2015, due to “health reasons.” ECF No. 818-3 at 1. The Debtor requested an indefinite continuance of the July 2, 2015 hearings. ECF No. 818-3 at 1. She attached two additional documents to the email for *in camera* review. Neither document substantiates a medical basis for the Debtor’s inability to complete a Rule 2004 Examination.

On July 2, 2015, the Court proceeded with the hearing on the Sanctions Motion, and it was clear that the Debtor had neither completed the Rule 2004 Examination nor

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<sup>1</sup> The Court reviewed audio files using Windows Media Player, and citations are to hours:minutes:seconds.

provided the remainder of the requested documents. The Court stated that it was granting the motion in part, denying it in part, and that it was continuing the hearing on the Sanctions Motion to August 27, 2015. ECF No. 675 at 00:12:20 – 00:13:22. The Court entered the Order to Complete Exam that directed the Debtor to complete all outstanding document discovery required under the Subpoena, and complete the Rule 2004 Examination, by August 10, 2015, and that directed the parties to report to the Court on August 27, 2015 as to whether the Debtor had done so. ECF No. 676.

On July 30, 2015, the Debtor filed a motion for an order to show cause why the chapter 7 trustee should not be removed. ECF No. 691. The Court set the motion to remove down for a hearing on August 27, 2015. ECF No. 696. The same day, July 30, 2015, the Debtor filed an amended notice of appeal, to appeal from a previous order. ECF No. 692. On August 10, 2015, the Debtor filed a second “Notice of Unavailability.” ECF No. 701.

On August 26, 2015, the chapter 7 trustee and the Office of the United States trustee filed responses to the Debtor’s motion to remove the chapter 7 trustee. ECF Nos. 715 and 716. The same day, the Debtor filed a “Motion for Decision on the Papers,” asking the Court to decide the merits of her motion on her written submissions alone, and a “Supplemental Support Response,” supporting her motion to remove. ECF Nos. 717 and 718. She also filed a motion to compel the chapter 7 trustee to abandon properties. ECF No. 719. The next day, August 27, 2015, she filed a motion to strike the responses of the chapter 7 trustee and the Office of the United States Trustee. ECF No. 720.

On August 27, 2015, the Court held the continued hearing on the Sanctions Motion. Counsel for the Moving Creditors stated that the Debtor failed to appear on or before August 10, 2015 to complete the Rule 2004 Examination and that she had failed to produce the requested documents in violation of Order to Complete Exam. ECF No. 724 at 00:17:25 – 00:18:45; 00:21:28 – 00:21:46; 00:26:30 – 00:27:07.

The Moving Creditors argued that the Debtor's notices of unavailability "were contrived," and that the Debtor's illness was either "insignificant or manufactured for the purpose of . . . reporting herself unavailable." ECF Nos. 722 at 722 at 00:12:40 – 00:12:45; 724 at 00:20:25 – 00:21:28. The Moving Creditors requested sanctions in the amount of \$9,944.00 against the Debtor for attorney's fees incurred in attempting to complete the Rule 2004 Examination. ECF No. 724 at 00:21:47 – 00:21:50; 00:23:48 – 00:24:00; see *also* ECF No. 632-8.

The Moving Creditors called two witnesses who testified, in essence, that they had each seen the Debtor in passing and from a distance, and did not speak with her, but that the Debtor appeared to be "normal" or "fine." ECF No. 724 at 00:04:50 – 00:05:34; 00:06:05 – 00:06:29; ECF No. 724 at 00:09:28 – 00:09:43. The Court notes that it found the testimony of these witnesses credible but not probative as to the Debtor's condition because they were not medical professionals, were not well-acquainted with the Debtor, did not speak to her, and each saw her once from some distance. Accordingly, it gives no weight to their testimony. The Debtor did not appear at the hearing to further defend against the Motion, and the Court took the matter under advisement.

On September 2, 2015, the Debtor sent additional documents to the Courtroom Deputy via email along with a letter addressed to the Court. ECF No. 818-4 at 1. The letter states that the Debtor “should not be subjected to court activities for at least three months, due to [her] medical conditions.” ECF No. 818-4 at 2. She stated that she had been receiving treatment for: “rehabilitation for [her] neck and spine pain,” knee and hip replacement, head trauma and memory loss, a colonoscopy, as well as “overwhelming stress, aggravated medical conditions, and loss of sleep.” ECF No. 818-4 at 2-3. She further stated that the “attached medical evidence [was] compelling evidence” that her medical conditions were ongoing and that she was not “physically or psychiatrically strong enough to withstand the stress of trial or courtroom activity at this time.” ECF No. 818-4 at 4.

She also objected to the nature of the hearing held August 27, 2015, stating:

The spectacle at the hearing last week – [Moving Creditors’ counsel] parading two witnesses who allegedly saw me two times (maybe three) in three months – was hardly appropriate. . . . [B]ased on my documented health issues, I could not cross-examine the witnesses. . . . With respect to the claim that the witnesses have seen me ‘out and about’ in Norwich, my treating physicians and psychiatrists have recommended that I engage in light chores and running short errands if I feel well enough.

ECF No. 818-4 at 4.

Attached to the email were eight additional documents filed by the court as exhibits under seal to ECF No. 818.

On September 10, 2015, the Debtor filed a motion to reopen an appeal, ECF No. 739, an amended notice of appeal, ECF No. 740, and a notice of appeal. ECF No. 741. On September 14, 2015, the Debtor filed a motion to vacate the Court’s order denying



her motion for adequate assurance. ECF No. 744. On September 15, 2015, the Debtor filed a motion to strike the request of Norwich Public Utilities for the entry of an order on its motion for relief from stay. ECF No. 748. On September 28, 2015, the Debtor filed three more notices of appeal, and another amended notice of appeal. ECF Nos. 774; 775; 776; and 777.

On October 7, 2015, the Debtor sent the Courtroom Deputy another email attached to which was another letter addressed to the Court as well as eight additional documents. ECF No. 818-5 at 1. In her letter, the Debtor stated that she was continuing to undergo treatment for neck and spine pain, a knee and hip replacement due to a “torn labral ligament,” a follow-up from her colonoscopy, overwhelming stress, aggravated medical conditions, and loss of sleep. ECF No. 818-5 at 2-4. She stated that she was “not able to appear [in Court] without impediment or danger to [her] health” and that the “enclosed medical documents also establish[ed] . . . that [her] physical and emotional health [was] fragile enough to warrant a continuance.” ECF No 818-5 at 4.

The documents Debtor attached to her letter are filed by the court under seal as ECF No. 818.

The Debtor transmitted additional medical records to the Court in support of additional notices of unavailability. See ECF Nos. 905; 1012. After review of those records, the Court finds them to be substantially similar to those discussed above.

The Court also takes judicial notice of the fact that, in multiple appeals of bankruptcy court orders to the District Court, the Debtor – while proceeding *pro se* and continuing in her refusal to complete the Rule 2004 Examination – filed voluminous pleadings. The documents filed with both the Bankruptcy Court and the District Court

by Speer – before, during and after the Sumemr of 2015 when the present dispute arose – required substantial time to prepare as they reflect legal research, written argument, organization of information and a high level of thought. Nonetheless, the Debtor persisted in her refusal to complete the Rule 2004 Examination through the date of the present motion for sanctions and has not cured herself of the contempt by completing the Rule 2004 Examination.

### III. Applicable Law and Burden of Proof.

The Bankruptcy Court is vested with the authority to enforce compliance with its orders by issuing contempt orders. See 11 U.S.C. § 105(a); Fed.R.Bankr.P. 9020.

A contempt order is warranted only where the moving party establishes by clear and convincing evidence that the alleged contemnor violated the [bankruptcy court's] edict. More specifically, a movant must establish that (1) the order the contemnor failed to comply with is clear and unambiguous, (2) the proof of noncompliance is clear and convincing, and (3) the contemnor has not diligently attempted to comply in a reasonable manner.

*King v. Allied Vision, Ltd.*, 65 F.3d 1051, 1058 (2d Cir.1995)  
(internal citations omitted).

Once the moving party has made a *prima facie* case for holding the contemnor in contempt, the burden shifts to the contemnor to produce evidence showing “clearly, plainly, and unmistakably” that it was impossible for her to comply. *Huber v. Marine Midland Bank*, 51 F.3d 5, 10 (2d Cir. 1995) (citing *United States v. Rylander*, 460 U.S. 752, 757 (1983)); see also *In re Marc Rich & Co.*, 736 F.2d 864, 866 (2d Cir. 1984) (“The burden of proving *plainly* and *unmistakably* that *compliance* is impossible rests with the contemnor.” (emphasis in the original)). If the contemnor “ ‘offers no evidence

as to [her] inability to comply . . . or stands mute,' [she] has not met [her] burden.”  
*Huber*, 51 F.3d at 10 (quoting *Maggio v. Zeitz*, 333 U.S. 56, 75 (1948)).

#### IV. Discussion

In this case, the Debtor does not challenge the Moving Creditors' assertions that she first failed to provide documents and to complete the Rule 2004 Examination in accordance with the Subpoena, and that she then failed to provide the documents and complete the Rule 2004 Examination in violation of the Court's Order to Complete Exam. ECF No. 676. Nor does the Debtor challenge the Moving Creditors' implied assertions that the Subpoena and the Court's Order to Complete Exam were both unambiguous or that the Debtor did not diligently attempt to comply with either of them. Rather, the Debtor contends that she was unable to comply with both the Subpoena and the Order to Complete Exam due to illness. ECF No. 647 at ¶ 2; 648; see also 818-4 at 2-6; 818-5 at 2-5.

The Debtor offers one piece of evidence in admissible form in support of her position, an affidavit she filed in response to the Sanctions Motion on June 16, 2015. ECF No. 648. Therein she states that she was unable to complete the Rule 2004 Examination scheduled for June 9, 2015 due to “flu-like” symptoms and that she would submit a statement from her physician “setting forth the nature of [her] illness and why it prevented [her] from attending the . . . examination.” ECF No. 648.

None of the other documents the Debtor has submitted to the Court in support of her contention – that illness has made it impossible for her to comply with the Subpoena and the Court's order – constitute evidence in admissible form. The three “notices of unavailability,” ECF Nos. 646, 701, 794, and the two letters the Debtor emailed to the

Courtroom Deputy, ECF Nos. 818-4 at 2-6; 818-5 at 2-5, lack a statement that they were sworn to under oath or under penalty of perjury. See 28 U.S.C. § 1746; *Affidavit and Sworn Statement*, Black's Law Dictionary (10th ed. 2014). Further, the Debtor failed to authenticate the purported medical records that she transmitted to the Court via email to the Courtroom Deputy, ECF Nos. 818-1 through 818-5. Fed.R.Evid. 803(4) and (6); 902 (11) and (12); see also *Braccia v. D'Blass Corp.*, 08 Civ. 08927(LTS)(KNF), 2011 WL 2848146, at \*8 (S.D.N.Y. June 13, 2011) (discussing the admissibility of medical records as evidence), *adopted by* 2011 WL 2848202 (S.D.N.Y. July 18, 2011). The Court instructed the Debtor in August 2014 that unauthenticated medical records constituted hearsay could not be considered as evidence. ECF No. 305 at 132.

The Court does not credit the Debtor's affidavit. The Debtor stated at a hearing on June 4, 2015, that she would complete the Rule 2004 Examination and provide the remainder of the outstanding documents on June 9, 2015. However, the next day, she filed a motion for an emergency stay of the Rule 2004 Examination pending appeal. *In re Speer*, 3:15cv00646 (RNC); Docket Nos. 13; 13-1. She did not make any indication on the record that she was too sick to conduct the Rule 2004 Examination until the Moving Creditors filed the Sanctions Motion and the Court denied the Debtor's motion for a protective order. Additionally, the Debtor stated in her affidavit that she would provide to the Court a note from a physician substantiating her claim that she had been too ill on June 9, 2015 to complete the Rule 2004 Examination. ECF No. 648. While the Debtor has sent numerous documents to the Court, she has not sent a letter or report from a physician substantiating her claim that she experienced flu-like symptoms at any point from June 9 through June 16, 2015.

Finally, the affidavit provides no explanation as to why the Debtor failed to comply with the Order to Complete Exam, directing her to complete document production and the Rule 2004 Examination by August 9, 2015. Accordingly, the Court finds that the Debtor has failed to meet her burden to demonstrate by clear, plain, and unmistakable evidence that it was impossible for her to comply with the Order to Complete Exam. *See Huber*, 51 F.3d at 10.

Alternatively, even assuming that all of the documents the Debtor submitted constituted admissible evidence, the Court determines that the Debtor is in contempt of its July 6, 2015 order. ECF No. 676. Again, the Debtor does not contest the clarity of the order, that she failed to comply with it, or that she did not diligently attempt to comply. Rather, she raises the defense of impossibility. In support of that position, in addition to the affidavit discussed above, the Debtor submitted three “notices of unavailability,” four emails, two letters, and approximately 20 documents.

In her letters, the Debtor stated that she was unable to comply with the Subpoena and the Court’s order because her “treating physicians [had] determined that [she was] not physically or psychiatrically strong enough to withstand the stress of trial or courtroom activity at this time, and . . . recommended that [she] not [be] required to testify at trial or hearings,” and that she could not appear for court proceedings “without impediment or danger to [her] health.” ECF Nos. 818-4 at 4, 818-5 at 4. The Debtor essentially repeated the same argument in her notices of unavailability. ECF Nos. 646, 701, and 794.

The Court also notes that, in her first notice of unavailability, the Debtor stated that she could not attend the hearing scheduled for June 17, 2015, in part because she

“underwent dental surgery” on June 16, 2015. ECF No. 646. The Debtor used the same excuse in a prior motion filed December 12, 2014, seeking to continue a 341 meeting of creditors, stating that she was “undergoing oral surgery on December 16th, which will preclude her ability to speak, therefore, testify.” ECF No. 276 at 1. As with her claim that she experienced flu-like symptoms, the Debtor has produced no documentation from a dentist or oral surgeon substantiating her claims.

The Court does not find these statements to be credible because, during the time that the Debtor has been “unavailable” due to medical problems, she has continued to file numerous motions and pleadings in both the District Court and the Bankruptcy Court. The Court discerns no difference between one’s ability to file, for example, 12 motions and pleadings in the District Court between August and October 2015, *In re Speer*, 3:15cv00646 (RNC), Docket Nos. 26 through 32, 34, 36, 40, 42, 44, and 52, and in excess of 20 motions and pleadings in the Bankruptcy Court, ECF Nos. 701, 717-720, 733, 739-741, 743-744, 748, 755-756, 758, 766, 768, 770, 774-777, 792, 794, 811-814, and 826 – 828, and the ability to provide the outstanding documents responsive to the Subpoena. If the Debtor was well enough to file the former, she was well enough to produce the latter. The Debtor has provided the Court with no evidence as to why her limitations allow her to file such a large number of documents with the Court but prevent her from disclosing financial documents to her creditors. See *Spotnana Inc. v. American Talent Agency, Inc.*, 2014 WL 7191400, at \*7 (S.D.N.Y. Dec. 3, 2014) (holding party in contempt where it was unable to prove that it was impossible to turn over documents).

Additionally, in her letter dated September 2, 2015, the Debtor referred to comments Moving Creditors' counsel made at the hearing of August 27, 2015. ECF No. 818-4 at 4. These references cause the Court to conclude that she listened to the audio recordings of the hearings, and was responding to arguments made therein. The Debtor has provided no explanation as to why she is able to listen to recordings of Court proceedings and respond with emails to the Court but at the same time unable to participate in Court proceedings via telephone.

Further, the Court notes that the Debtor's motions and notices of appeal, in conjunction with her "notices of unavailability," have the effect of allowing her to proceed with motions she wishes to pursue against her creditors while preventing her creditors from pursuing their motions against her. It appears that the Debtor seeks to create a situation in which she controls the pace and flow of litigation by filing the motions and pleadings to her benefit but can hold up a shield of unavailability against her creditors' attempts to respond.

Moreover, the Court does not credit the Debtor's statements regarding her inability to complete the Rule 2004 Examination because the medical documents she provided – as well as the docket of this case and the dockets of the District Court appeals – do not support the conclusion that she is so incapacitated that she cannot concentrate, understand questions and respond to them, or is unable to identify, locate and produce documentations. The only conclusion to be drawn from the voluminous litigation record here is that the Debtor chooses not to complete the Rule 2004 Examination.

For these reasons, the Court concludes that, even assuming that all of the documents the Debtor has provided regarding her health conditions constitute admissible evidence for the purpose of defending against a contempt motion, the Debtor has failed to meet her burden of demonstrating “unmistakably” that she was unable to comply with the Court’s order to produce documents or to complete the Rule 2004 Examination. See *Huber*, 51 F.3d at 10.

#### V. Conclusion

“The Court finds that all of the prerequisites of a finding of contempt and the imposition of sanctions have been met.” *In re Corso*, 328 B.R. 375, 386 (E.D.N.Y. 2005). The Order to Complete Exam was clear and unambiguous, the proof of noncompliance is clear and convincing, and the debtor has not diligently attempted to comply in a reasonable manner. Therefore, the Sanctions Motion (ECF No. 632) is granted to the extent that it finds the Debtor to be in contempt of the Order to Complete Exam. Further, the court imposes a sanction of \$8,000.00<sup>2</sup> to be paid by Sheri Speer to the Moving Creditors, representing a portion of the reasonable attorneys’ fees they incurred in seeking enforcement of the subpoena served on the Debtor for the Rule 2004 Examination. See, ECF No. 632-8. The court imposes this sanction to compensate the Moving Creditors for the legal costs they incurred due to the Debtor’s unjustified refusal to complete the Rule 2004 Examination.

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<sup>2</sup> The court notes that counsel for the Moving Creditors submitted an affidavit of attorneys fees setting forth \$9,440 of fees incurred on or before June 11, 2015. ECF No. 632-8, pp. 7-8. The court notes that this sanction is conservative in that it does not take into account numerous additional court appearances by counsel after June 11, 2015, seeking to enforce the Debtor’s compliance with the subpoena and subsequent Order to Complete Exam.



Due to the pending litigation between the parties in Adversary Proceedings 15-2003 and 15-2031, the court will defer further sanction regarding completion of the Rule 2004 Examination until those cases are completed.

Dated on March 31, 2017, at New Haven, Connecticut.



*Ann M. Nevins*  
United States Bankruptcy Judge  
District of Connecticut