

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO**

In re:

SHERRY ANN MCGANN,
Debtor/Movant

**Case No. 20-18118-TBM
Chapter 7**

**NOTICE OF TRUSTEE MISMANAGEMENT, TAX FILING DEFICIENCIES,
INTENTIONAL MISCONDUCT, AND ESTATE DEPLETION**

Movant, appearing pro se, hereby submits this Notice for the purpose of preserving the record regarding the mishandling of estate tax obligations, intentional infliction of emotional distress (IIED), mismanagement of estate assets, and ongoing financial and constitutional harm caused by the Chapter 7 Trustee, Jeanne Y. Jagow. This is not a motion for relief but is submitted to ensure that the facts are available for judicial and appellate review.

I. FAILURE TO FILE OR DISCLOSE TAX RETURN SINCE 2021

On April 30, 2025, the Trustee emailed Movant demanding cost basis information within 48 hours, for the Grand Lake property, stating that the estate's accountant was preparing the 2024 tax return – notably that were due April 15, 2025. Movant swiftly provided the information. However, the Trustee has failed to respond to Movant and confirm whether any IRS Form 1041 filings have ever been made for the estate, which has been open since **June 2021** under EIN **30-6698913**. Movant inquired further if a Form 7004 was filed to extend the deadline and received no response.

On May 1, 2025, Movant contacted the Internal Revenue Service (IRS) by phone and spoke with representative **Ms. Demarzio**, ID# **31000621061**, who confirmed that the estate's Employer Identification Number (EIN) is **30-6698913**, assigned to the "Sherry Ann McGann Bankruptcy Estate." This number had not been previously provided by the Trustee, despite Movant's direct written request via email on April 30, 2025, which remains unanswered.

While the IRS provided the EIN without restriction, Ms. Demarzio advised that the IRS could not release any tax transcripts or confirm whether IRS Form 1041 filings had been made since the estate's opening in June 2021, unless the Trustee authorized disclosure or Movant submitted a formal written request. Movant was specifically instructed to write the IRS to request the release of those records, which she has done and will supplement this filing upon receipt.

The Trustee's failure to provide this basic fiduciary information — particularly following the forced sale of Movant's home and the partial payment of her fully owed state held constitutional homestead exemption — has obstructed Movant's ability to obtain necessary tax documentation, including the estate's W-9, IRS Form 1099, or Schedule K-1, as required by law. The withholding of these documents, along with the lack of transparency surrounding IRS filings, constitutes a clear violation of the Trustee's obligations under **11 U.S.C. §§ 704(a)(7) and 704(a)(8)** and the estate's fiduciary reporting duties under **26 U.S.C. § 6012(b)(4)**. The Trustee has provided none of these documents for any year. The absence of these mandatory records exemplifies the Trustee's persistent failure to meet even the most basic administrative obligations.

This is not a minor oversight. The IRS treats estates as separate taxable entities, and annual compliance is mandatory. The Trustee's potential inaction across multiple tax years —

combined with her failure to respond to direct inquiries about IRS extensions or filings — raises serious questions of mismanagement, concealment, or both. Movant reserves all rights to report these violations to the IRS Office of Professional Responsibility and the United States Trustee Program for further review.

II. AVOIDABLE TAX LIABILITY, ESTATE INSOLVENCY, AND INTENTIONAL MISCONDUCT

The record reflects that during the May 13, 2024 evidentiary hearing, Movant directly questioned the Court on what would happen if the forced sale of her residence rendered the estate insolvent. This warning was clearly stated on the record and ignored. Despite having every opportunity to assess the financial consequences of the sale — including the projected capital gains tax burden — the Trustee failed to conduct even basic due diligence. Had she done so, it would have been apparent that the transaction would deplete estate resources rather than preserve or increase them. This failure to perform “Bankruptcy Administration 101” tax analysis before liquidating a primary residence is not merely negligent; it is financially devastating and reflects a willful disregard for fiduciary responsibilities. The results appear to be precisely what Movant warned of: the estate has been unnecessarily rendered insolvent.

The forced sale of Movant's residence, over her repeated objections and offers to resolve the case in 2022 and 2023, has triggered as what appears to be an **estimated capital gains tax liability of over \$248,000**. Movant would have qualified for the exclusion under 26 U.S.C. § 121 had she been allowed to sell the property herself, through lawful arms-length transactions with family members, or through an entity she lawfully controls (Celestial Properties). Numerous legitimate alternatives were available to the Trustee to preserve value, pay creditors in full, and close the estate without destruction of assets. Instead, the Trustee ignored those options and pursued a path that appears designed to exploit the bankruptcy process for tactical advantage to

conceal her own misconduct, escape accountability for fiduciary failures, and allow her counsel to exploit the administration for personal and financial control. These decisions reflect not only poor judgment but a concerning abdication of fiduciary duty, with outcomes that undermined the estate's intended purpose.

The Trustee pursued a course of action that directly results in the depletion of the estate. The estate now appears to reflect a substantial deficit, based on the following known liabilities and losses: (1) **\$248,000** in avoidable capital gains tax triggered by the forced sale; (2) **\$245,000** in unpaid constitutional homestead exemption (of which only \$105,000 has been paid to date)¹; and (3) \$144,883 in a collectible judgment owed to the estate, which the Trustee failed to pursue or enforce and now 3-years after Movant again requested release as discussed at May 3, 2022 hearing; under court order from new judge, is to provide reports on collection efforts. That uncollected judgment is directly related to the same party asserting **Claim No. 11, a \$156,000** claim against the estate. Rather than applying the judgment as an offset — which would have reduced or eliminated the claim — the Trustee inexplicably allowed the full claim to stand, resulting in the estate owing a debt it was legally entitled to recover. This failure not only caused direct financial harm to the estate but reflects a misuse of claim administration that favored the claimant at the estate's expense.

The new avoidable tax consequence and claims upon the estate which have not been listed above are the over \$200,000 in legal fees claimed by Mr. Miller, nor the Trustee's own administrative fees, which remain undisclosed — nor do they include payments to unsecured creditors who could have been paid in full as early as 2022 under Movant's proposed settlement.

¹ Miller just filed for extension to answer brief on this subject and was granted partial awarded until June 5 2025.

A licensed professional accountant has been retained by Movant to independently evaluate and confirm the full scope of financial depletion, tax liability, and misadministration reflected in these figures, including the impact of uncollected assets and unpaid exemptions. Preliminary estimates place the total tax liability resulting from the Trustee's forced sale at approximately **\$247,542**. This figure includes both capital gains tax and Net Investment Income Tax (NIIT) based on IRS Form 1041 rules applicable to estates and trusts. Movant reserves the right to supplement the record with formal CPA verification or expert declaration — or alternatively, to document how the Trustee continues to ignore these known consequences and further depletes the estate.

Movant's 2022 offer would have paid all creditors in full, including professional fees. The Trustee has never justified how her "plan" was superior. On the contrary, the results are undeniable: **unnecessary taxation, depletion of equity, destruction of business interests, and permanent financial harm**. This administration reflects a personal vendetta and an intentional strategy to weaken Movant's standing and retaliate through economic devastation.

There is over \$6.3 million in unaccounted-for value (as originally listed on Schedule A/B of the petition) from Movant's original A/B schedules, and the Trustee continues to unlawfully withhold membership interests in Celestial Properties for years barring statutes of limitations on viable claims. She and her counsel have repeatedly manipulated facts, misled the newly assigned judge, and been permitted to continue despite clear evidence of intentional harm. This conduct has risen to the level of intentional infliction of emotional distress (IIED), as evidenced by the long trail of denied accommodations, false promises, and destroyed constitutional and financial interests.

III. SYSTEMIC TRUSTEE MISMANAGEMENT AND JUDICIAL ENABLING IN COLORADO

The failures in the present case are not anomalies. Rather, they illustrate a broader systemic breakdown in the administration of Chapter 7 bankruptcy cases in the District of Colorado². Movant has been repeatedly advised by attorneys practicing in Colorado that the local pool of trustees is widely viewed as lacking competence or impartiality, with one attorney commenting, *‘you hope for the best of the bad’*. These deficiencies are not theoretical — they carry real, measurable consequences when trustees lack the skill, independence, or judgment required to manage complex estates.

In this case, Trustee Jeanne Y. Jagow has demonstrated a persistent inability to meet basic fiduciary duties, including timely tax filings, asset protection, claim management, and duty of candor to the Court. Her errors have resulted in the destruction of equity, unnecessary taxation, loss of protected exemptions, and avoidable depletion of the estate and personal emotional and physical harm to Movant. Compounding these errors is her refusal to communicate directly with Movant — evidenced by the fact that Movant has received only five emails from the Trustee in over four years³ — while outsourcing all substantive decisions and communications to counsel David M. Miller, who has benefitted extensively from these administrative choices.

More troubling still is the judiciary's role in enabling these failures. Despite clear records from earlier proceedings, including findings by Judge Brown, the current Court has appeared to accept Trustee and counsel assertions without regard for the established evidentiary record. The

² Further evidenced by Roger K. Adams and his role for less than 30 days in this case. His recent filing at 24-01179 Dkt. Nos. 58, 59, & 60 clearly shows lack of professionalism or procedural knowledge with an attempt to cover his neglect. Movant did not feel a response was necessary as he simply attempts to continue his defense from the hearing that adjourned on April 4, 2025 nor did he offer anywhere near 500 email correspondence he testified under oath occurred.

³ Noting for the record; the last email date received from Trustee, prior to the April 20, 2025 email, was December 14, 2022 -- despite being the debtor, a creditor, owner of Celestial Properties and the person most directly impacted by the administration. This level of disengagement should raise serious concerns.

results have been devastating: \$6.3 million in value from Movant's original schedules remains unaccounted for, key business interests have been unlawfully retained, and the Trustee's plan has yielded tax consequences, unsecured claims, and administrative fees that now appear to outstrip the estate's value.

The federal judiciary must take seriously its gatekeeping role in ensuring that fiduciaries tasked with controlling multi-million-dollar estates possess the requisite competence, judgment, and impartiality. This case serves as a cautionary example of what occurs when that oversight breaks down. Movant reserves all rights to seek damages, sanctions, and removal under applicable law.

V. DOCUMENTED HISTORY OF TRUSTEE MISMANAGEMENT IN OTHER CASES

The conduct of Trustee Jeanne Y. Jagow in this case is not an isolated episode of mismanagement. Judicial records across multiple cases demonstrate a pattern of procedural error, neglect of fiduciary duties, and repeated exposure of the estate to avoidable harm⁴.

Examples include:

In a published opinion by Chief Judge Michael E. Romero who vacated the reopening of a bankruptcy case involving marijuana-related assets due to concerns about federal illegality under the Controlled Substances Act. Trustee Jagow was assigned to administer those assets. The case illustrates the inappropriate assignment of complex or high-risk estates to trustees without the requisite experience or qualifications.

1. **In re Malul, 614 B.R. 699 (Bankr. D. Colo. 2020)** – Chief Judge Michael E. Romero reopened the case and appointed Trustee Jagow over an estate involving marijuana-derived assets. The Court ultimately vacated the reopening due to federal illegality concerns. While

⁴ Movant presents these references solely to illustrate recurring administrative challenges under Trustee Jagow's stewardship; no statement herein alleges formal discipline or court-imposed sanctions unless expressly cited.

Judge Romero did not assign personal fault to Trustee Jagow, his detailed opinion raised substantial legal concerns about the administration of marijuana-linked assets under federal law. These complexities arose under her stewardship, demonstrating that her management of high-risk estates has drawn judicial scrutiny and resulted in prolonged litigation.

The handling of this estate drew significant concern:

Trustee's Aggressive Posture – Despite the cautions from the court, Trustee Jagow proceeded to administer the Malul estate **assertively**. She objected to the debtor's claimed exemptions and opposed abandoning the marijuana-related assets, signaling her intent to liquidate or monetize them for creditors. In fact, when Ms. Malul moved to compel the trustee to abandon the assets (arguing they were tainted by illegality), the trustee filed her own objection insisting the assets were property of the estate and could not be exempted as "earnings". Malul's motion pointed out the dilemma: the estate's rights "constitute unvested rights to proceeds derived from the overt and ongoing sale of marijuana," and thus "*cannot be administered by the Trustee... without violating federal criminal law.*" In other words, the debtor and others were effectively warning that **Trustee Jagow's administration might force a violation of law** – a striking situation implying potential misconduct if mishandled. Judge Romero left the door open for any party to challenge the trustee's administration given the marijuana issues, to be considered *de novo* by the court. This rare invitation for scrutiny reflects judicial concern that the **trustee's actions could cross legal lines** (even if well-intentioned).

Outcome and Implications – Ultimately, Judge Romero issued a detailed opinion in *In re Malul* (614 B.R. 699) grappling with these issues. The case illustrates how Ms. Jagow's conduct as trustee can lead to highly problematic scenarios. Here, the court openly questioned whether the case should proceed at all under a Chapter 7 trustee given the nature of assets. This is, in

effect, a commentary on the fitness of the trustee to administer certain assets. While not a personal rebuke of Ms. Jagow, it shows that under her stewardship, the estate ventured into a legally gray area requiring court intervention. Such complexity can result in prolonged litigation and higher administrative costs. (Indeed, the *Malul* matter spawned parallel state court litigation between the trustee/*Malul* and the cannabis business partners, with appeals up to the Colorado Supreme Court.) The *Malul* case demonstrates a pattern where Jagow's administration has prompted appellate courts and other judges to weigh in, sometimes reversing or vacating outcomes.

In one state-court related action (*Malul & Jagow v. Fritzel et al*), the Colorado Court of Appeals in 2022 **reversed in part and vacated** a judgment, remanding for further proceedings – showing the contentious path such estate litigation can take.

2. Jagow v. Mutual of Omaha Insurance Co., No. 09-1206 (10th Cir. 2010): Serving as trustee for Precedent Health Center Operations, LLC, Ms. Jagow filed suit against Mutual of Omaha without exhausting administrative remedies—a fundamental requirement in Medicare-related disputes. The Tenth Circuit affirmed dismissal for lack of subject matter jurisdiction, a result directly traceable to the trustee's failure to follow basic legal procedure. The decision turned on procedural jurisdiction, but it reflects the need for trustees to understand and observe specialized legal processes when pursuing claims.

3. McGann v. Jagow, No. 1:24-cv-00727 (D. Colo.): This case reflected ongoing and credible concerns regarding Trustee Jagow's abuse of authority. Debtor Sherry McGann initiated a civil action against Jagow alleging fraud, civil conspiracy, and abuse of process arising from her administration of the bankruptcy estate. The matter was dismissed without prejudice on procedural grounds pursuant to the Barton doctrine, which requires prior court authorization to

sue a trustee. In parallel, Adversary Case No. 24-01179 remains stalled due to a 48-hour deadline lapse—despite overwhelming evidence supporting excusable neglect. The Trustee has leveraged this technicality to pursue dismissal in an effort to conceal the misconduct and unclean hands of both herself and her counsel, David M. Miller. **These facts underscore an escalating pattern of contested conduct and a deepening record of fiduciary abuse.**

These examples lend further support to Movant’s contention that Trustee Jagow lacks the professional competence and independence required to handle high-value or legally complex estates. **They also reflect a need for broader reform, oversight, and accountability within the United States Trustee program in Colorado.** Movant reserves the right to supplement the record with additional findings as public records are further reviewed.

VI. CONCLUSION AND PRESERVATION OF RIGHTS

Movant is actively working with a professional CPA to confirm these financial losses and capital gains estimates. A declaration will be submitted upon completion of the analysis to supplement the record and confirm the scope of estate depletion.

Movant submits this Notice to preserve these facts in the official court record and reserves all rights to pursue appropriate remedies under 11 U.S.C. § 105(a), seek surcharge, or file further motions as necessary. The Trustee's decisions have not served the best interests of creditors or the estate and appear designed to deplete value, obstruct recovery, and undermine judicial integrity.

Respectfully submitted this 5th day of May 2025.

Sherry McGann

/s/ Sherry A McGann
Pro Se Movant

CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below, a true and correct copy of the foregoing **NOTICE OF TRUSTEE MISMANAGEMENT, TAX FILING DEFICIENCIES, INTENTIONAL MISCONDUCT, AND ESTATE DEPLETION** was served via the Court's CM/ECF system and/or by U.S. Mail, postage prepaid, to:

- **Jeanne Y. Jagow**, Chapter 7 Trustee
- **David M. Miller**, Counsel for Trustee
- **Liberty Mutual Insurance Company**
- All parties entitled to notice via CM/ECF

Dated: May 5, 2025

Sherry McGann

/s/ Sherry McGann

Sunday, May 4, 2025 16:14

Electronic Document Dropbox

Name	Sherry McGann
Email	sherry@nalanimauui.com
Phone Number	(303) 507-7658
Case Number (if known)	20-18118