

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT  
PROBATE DIVISION

In Re:

Case Type: Special Administration

Court File No: 10-PR-16-46

Estate of Prince Rogers Nelson,

Judge: Kevin W. Eide

Decedent. **REPLY IN SUPPORT OF SNJ, L.  
LONDELL MCMILLAN AND  
CHARLES SPICER'S MOTION TO  
INSTITUTE PROTOCOLS TO  
FACILITATE THE CLOSURE OF THE  
ESTATE**

Sharon Nelson and Norrine Nelson (together, "Heirs"),<sup>1</sup> L. Londell McMillan ("McMillan") and Charles Spicer ("Spicer") (all parties collectively, "PRN Parties"), as heirs and interested persons in the Estate of Prince Rogers Nelson ("Estate") submit this Reply in Support of their Motion to Institute Protocols to Facilitate the Closure of the Estate.<sup>2</sup>

### **INTRODUCTION**

Throughout these proceedings, the PNR Parties have reasonably attempted to expedite closure of the Estate and preservation of the Estate assets to allow the elderly SNJ heirs to benefit from Prince's inheritance. Last week, another sibling of Prince, Johnny Nelson, died at the age of 78. His two older siblings, Sharon and Norrine Nelson, remain alive and, along with the other PRN Parties, seek resolution and closure of this Estate. In their August 13, 2021 filing, the PRN Parties

<sup>1</sup> Heir John Nelson supported the initial motion filed by the PRN Parties on August 13, 2021, yet he unfortunately passed away before this Reply was filed.

<sup>2</sup> Comerica has presented its most recent filing as a "Reply in Support" of its petition to approve the Interim Accounting. However, it is primarily responding to arguments made in the PRN Parties' Motion to Institute Protocols to Facilitate Closure of the Estate, filed on August 13, 2021. Accordingly, the PRN Parties now submit their reply brief in support of their Motion.

requested the institution of a number of protocols intended to help move the Estate toward closure and counteract Comerica's "drag-along" of the proceedings.

At the time the initial motion was filed by the PRN Parties, no meaningful discussions regarding closure had occurred for months, after Comerica arrogantly refused to even discuss the issue until the Heirs and Interested Persons had demonstrated their purported "seriousness" to Comerica's satisfaction. After the PRN Parties brought these issues before the Court, both at the July 23, 2021 hearing and in their subsequent August 13 filing, some mere conversational progress has occurred, yet Sharon and Norrine have now lost their brother Johnny and the Estate has now lost two of Prince's six heirs.

Despite the fact that Comerica is now appearing to discuss certain of these issues with the Heirs and Interested Persons behind closed doors, Comerica has responded, through its filings, to the PRN Parties' requests for protocols, transparency and accountability by issuing a misleading, belligerent and contentious invective. After having repeatedly accused the PRN Parties of taking a "combative" tone in emails (which were intended to allow the elderly heirs to close the Estate and which, incredibly, Comerica claims justifies its refusal to even communicate with the Heirs), Comerica now spends much of its brief aggressively accusing the PRN Parties of a variety of transgressions and leveling ad hominem attacks at certain heirs and their advisors. Yet Comerica and its aggressive counsel have overplayed their hand. In accordance with this Court's request for "specifics," the PRN Parties have described below how Comerica's various mischaracterizations and false allegations are overstated and fall flat upon closer inspection.

Moreover, this posturing before the Court does nothing to improve Comerica's alleged "combative" atmosphere, and the parties should, at this point, be focusing their energies on working with the Court to immediately move the Estate to an efficient and successful closure and

transition with the Court's assistance, as the PRN Parties have absolutely no assurance or confidence that closure can be otherwise accomplished promptly and respectfully.

### DISCUSSION

#### **I. THE COURT SHOULD INSTITUTE PROTOCOLS REQUIRING THE PARTIES TO END UNNECESSARY DELAYS AND IMPLEMENT A TIMELINE FOR CLOSURE.**

The PRN Parties seek issuance of a protocol requiring the parties to agree to and implement a schedule setting forth the necessary actions for closing the Estate. After the PRN Parties spent months stating, through correspondence, meetings, and in court filings, that they wanted to move as quickly as possible toward closing the Estate, Comerica finally produced a closure checklist, following the PRN Parties' August 13 filing. This new detailed checklist presents far more issues than Comerica represented as being outstanding months ago, and is not clear why these additional items were not part of the parties' original discussions many months ago, and further necessitates the need for the Court's supervision.

[REDACTED], it is even more critical that the parties are able to make commitments as to when specific items on the checklist will be accomplished, and by whom, so that the process moves forward expeditiously on a mutually agreed schedule. The PRN Parties request that the Court intervene to supervise the closure, order the implementation of a complete and specific schedule for closure, or at a minimum, institute periodic status conferences with the Court wherein the parties can update the Court on their progress and seek guidance on particular issues. *See* Minn Stat. 524.3-501 (setting forth the continuing authority of the Court in a supervised proceeding, and the supervised personal representative's responsibility to the court).

Despite knowing better, in its responsive filings, Comerica seeks to blame the Heirs and Interested Persons for delaying the closure process. This “blame the victim” strategy is dishonesty and injustice at its core. Comerica claims that it has sought certain information from the Heirs and Interested Persons regarding their post-closure management of the Estate, including “[w]hat structure [they] envision for strategy and goal setting; decision making; governance and control; dispute resolution, etc.” (8/27/21 Comerica Reply, at 3). Comerica asserts that because the Heirs and Interested Persons have not specifically identified these “structures,” they have no right to seek protocols that would facilitate a quick and efficient closure. (*Id.*).<sup>3</sup>

First, much of this information is not necessary to close the Estate. The Heirs and Interested Person’s plans for “goal setting” and “dispute resolution,” among other things, are nothing that Comerica needs to be concerned with, as Comerica’s counsel has previously acknowledged. These are not “threshold questions,” as Comerica is aware. The information that is actually necessary to close the Estate is the identification of the entities to which the assets will be distributed. As discussed further below, the Heirs and Interested Persons have already submitted this information to Comerica as part of their Proposed Business Plan and Summary of Principal Terms. The Heirs and Interested Persons received minimal feedback on these proposals from Comerica before Comerica forced the issue into mediation in May 2021, and the parties are now, many months later, forced to readdress these issues further in mediation. However, there is no reason why this

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<sup>3</sup> Comerica also claims that the Heirs and Interested Persons “changed their mind” as to whether they wanted to proceed with closure or to transition to a new Personal Representative. However, the record, including the documents cited by Comerica, demonstrates that the Heirs and Interested Persons did not reverse their position – in fact, they were considering both options pending further information as to which would be quicker, and eventually elected to proceed with closure. *See, e.g.,* 8/13/21 McMillan Decl., Ex. E (5/12/21 Email from McMillan to Cassioppi; 5/13/21 Email from McMillan to Cassioppi, 8/9/21 Email from McMillan to Cassioppi); *see also* Ex. B (5/24/21 Email from Cassioppi to McMillan).

issue must be fully resolved before any commitments can be made to schedule other events and actions necessary for closure.

As with Comerica's previous filings, there are a number of intentional mischaracterizations related to the PRN Parties' conduct and interactions with Comerica that must be addressed. At the July 23, 2021 hearing, Comerica's counsel stated that Comerica "don't have any plan, any agreed upon plan" from the Heirs and Interested Persons, and that "we've been asking for months." (8/13/21 McMillan Decl., Ex. A at 34:18-20) (hereinafter, "Tr."). This statement did not accurately reflect the record in this matter, and consequently, Mr. McMillan responded as follows:

And one specific he just said that there is no plan that has been agreed and submitted is categorically false. We submitted a plan. We've all signed off on the plan including the interested parties. We have an agreement. They have come back and said that they need more. We've said let's sit together and come out with specifically what you need.

(Tr. 36:9-25).

Comerica's counsel has falsely attacked the PRN Parties and Mr. McMillan for his supposed "lack of candor" to the Court based on this response at the hearing, but his statement was accurate and true. The facts are as follows: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (See Comerica

Reply, at 3; See also 8/13/21 McMillan Decl., Ex. H and 8/27/21 Cassioppi Decl., Ex. A).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (9/13/21 Second Declaration of L. Londell McMillan (hereinafter, Second McMillan Decl.), Ex. A). [REDACTED]

[REDACTED]

[REDACTED]. On March 24, 2021, Jonas Herbsman, counsel for then heir, Omarr Baker, and now counsel for Primary Wave, submitted a revised version of the Summary to Comerica. (8/13/21 McMillan Decl., Ex. H; *see also* 8/27/21 Cassioppi Decl., Ex. A).<sup>4</sup> Mr. Herbsman did not receive any response to his email from Comerica. Thereafter, in May 2021, Comerica announced that [REDACTED]

[REDACTED]

[REDACTED] (8/13/21 McMillan Decl., Ex. B). Consequently, any further discussion of the Summary was prevented as the issue lay stalled in mediation for the next eleven weeks. The Comerica “drag-along” continued.

Comerica’s counsel’s statement at the hearing, that the Heirs and Interested Persons “don’t have any plan, an agreed upon plan,” was inaccurate and misleading, and there was nothing

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<sup>4</sup> Comerica claims that the PRN Parties are somehow trying to hide the fact that Mr. Herbsmans’ submission to Comerica was a revised version of the Summary first provided on December 16, 2020, as they have confirmed in their Reply (8/27/21 Reply at 5; *See also* Cassioppi Decl., Ex. A)). The PRN Parties attached his cover email to their prior filing in order to demonstrate that the Heirs and Interested Persons had followed up with further revisions in March and had received no further response from Comerica. (8/13/21 McMillan Decl., Ex. H). Comerica has claimed the PRN Parties sought to mislead the Court, because the document attached to Mr. Herbsman’s email was a revised version of the 12/16/20 Summary. However, the PRN Parties have never made any representations to the contrary, and Mr. Herbsman’s email made explicit reference to the fact that it attached a draft of “the Heirs Term Sheet Regarding Transition and Management” (*Id.*)

improper about Mr. McMillan pointing this out. The Heirs and Primary Wave had in fact submitted a plan to which they all agreed, which addressed the issues sought by Comerica, and to which Comerica responded positively at the time, with the understanding that there were further issues to discuss.<sup>5</sup> Moreover, Comerica's counsel's further disingenuous claim that "we've been waiting for months," conveniently ignored the fact that Comerica declined to respond to Mr. Herbsman's March 2021 revisions, refused to engage in reasonable communications ordered by the Court, and then unilaterally pushed any further discussion of the issue into mediation, where it has remained without resolution since May. The many-month delay and "drag-along" has resulted largely from the conduct of Comerica and its high-priced lawyers and advisors.

Comerica and its counsel have also claimed that the PRN Parties put confidential mediation materials into the record, and once again its arguments are inaccurate and misleading. Notwithstanding a long and exhausting effort by Comerica and their advisors to keep their acts and omissions in secrecy, no confidential information has been disclosed. On August 13, 2021, the PRN Parties provided Comerica's counsel with its Response and Motion to Institute Protocols,

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<sup>5</sup> Comerica now seeks to move the goal posts, attempting to downplay the Summary [REDACTED] (8/27/21 Cassioppi Decl., Ex. A at 1).

Second, Mr. McMillan and Mr. Spicer had not yet acquired any portion of SNJ's expectancy interest at the time the Summary was prepared and submitted to Judge Eide, [REDACTED] (*Id.*; Cassioppi Decl., Ex. A at 1). Finally, Comerica claims these filings do not address the proposed entity and distribution structure. This is incorrect – [REDACTED]

[REDACTED] (Second McMillan Decl., Ex. A).

as instructed by the Court, in order for Comerica to review for any confidentiality issues.<sup>6</sup> Comerica provided a number of redactions, which the PRN Parties disputed yet, in the avoidance of doubt, duly incorporated into their final version and filed appropriately under seal. Comerica's counsel also raised an objection to two exhibits, Exhibits C and D, which it claimed to constitute confidential mediation communications that should not be submitted to the Court. In response, the PRN Parties removed their Exhibit C and redacted nearly the entirety of Exhibit D, leaving only a single, entirely non-confidential sentence that was necessary to support their memorandum (See Memorandum in Support of Motion to Institute Protocols to Facilitate Closure of the Estate, footnotes 1 and 2; 8/13/21 McMillan Decl., Ex. D) and which was not a violation of mediation confidentiality.

Comerica now claims that an additional exhibit, Exhibit B, also contained confidential mediation material and was improperly disclosed. The PRN Parties disagree. This exhibit, unlike the others removed by the PRN Parties, does not involve communications directly with the mediator, nor communications submitted pursuant to the mediation process at the direction of the mediator. Additionally, this exhibit was submitted to the Court by the PRN Parties in a previous filing and Comerica did not raise any objection that it was a protected mediation communication. (8/10/21 McMillan Decl., Ex. C).

Exhibit B contains an email chain reflecting a discussion between Mr. McMillan and Joseph Cassioppi [REDACTED]

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<sup>6</sup> Comerica has also complained that the PRN Parties did not provide them with the Declaration of C. Wells Hall prior to filing. At the time the PRN Parties sent their filing to Comerica, Mr. Halls' declaration was not yet finished, and would not implicate any confidentiality concerns because the PRN Parties had not disclosed any confidential information to Mr. Hall, and he had reviewed and relied entirely on publicly available information. (8/13/21 Hall Decl. ¶ 6). This is confirmed by the fact that Comerica has not raised any confidentiality issues in connection with his declaration.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>7</sup> Unfortunately, this is consistent with Comerica’s general strategy of refusing to directly discuss Estate issues and instead forcing them into mediation, where they will avoid the Court’s scrutiny, prevent the PRN Parties from disclosing “specific facts” that the Court requires, and continue the Comerica “drag-along” process that delays closure.

**II. THE COURT SHOULD INSTITUTE PROTOCOLS ALLOWING THE PRN PARTIES ACCESS TO COMMUNICATIONS WITH TAX AUTHORITIES AND APPOINTING A TAX ADVISOR.**

Comerica has refused to provide the PRN Parties with their communications with the tax authorities regarding settlement. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Reply, at 16). This Court’s April 23, 2019 Order, issued by the Court in response to Respondents’ requests for greater transparency in the tax settlement negotiations, requires Comerica to keep the Heirs informed as to the position of the tax authorities in connection with the settlement negotiations. By refusing to provide the specifics of

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<sup>7</sup> The statutes and rules Comerica cites are inapposite. Minn. Stat. § 595.02, subd. 1(m) and 1(a) are inapplicable because no one is being examined nor is a mediator being compelled to testify. Minn R. Evid. 408 does not apply because any allegedly protected information under the Rule is not being admitted at trial “to prove liability for or invalidity of the claim or its amount” as required. In regard to Minn. Gen R. Prac. § 114.08, the parties’ informal email discussions in Exhibit B are not “statements made in non-binding ADR,” nor are they being sought by the PRN Parties through discovery or a similar disclosure process.

Comerica's interactions with the tax authorities, Comerica is preventing Respondents from being fully informed as to how and why the tax authorities took a certain position.

Comerica originally withheld this information from the PRN Parties based on an assertion that it comprised "protected settlement communications." (8/13/21 McMillan Decl., Ex, J (Email from Steinert to LLM)). Neither Comerica nor its counsel have provided any authority to support withholding this information from the beneficiaries of the Estate on this basis. Instead, Comerica seeks to justify its refusal to provide this information by referencing Sharon Nelson's conversation with the IRS and her statements to the Star-Tribune. However, in neither instance did she disclose confidential information provided to her in connection with the tax negotiations.

Comerica and its lawyers continue to intentionally mischaracterize the substance of Ms. Nelson's call with the IRS, claiming she called specifically to expedite a settlement when in fact she called to learn further information regarding the IRS's timelines and procedures (S. Nelson Decl. ¶ 4). Comerica have questioned Ms. Nelson's judgment<sup>8</sup> but they have not pointed to any instance where she actually disclosed information provided to her regarding tax negotiations. Accordingly, there is no basis for excluding her, nor the other Heirs and Interested Persons, from receiving this information. To the extent there are further communications with the IRS or MDOR regarding settlement negotiations, the Heirs should receive access to them.

Comerica and its counsel have attacked the PRN Parties' proposed tax advisor C. Wells Hall, claiming he is both "reckless" and unqualified. In total, the level of professional disrespect directed toward Mr. Hall is highly disturbing but sadly indicative of the type of overwrought

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<sup>8</sup> In fact, no settlement discussions had taken place when Ms. Nelson contacted the IRS. Thereafter, Comerica complained to the Court because Ms. Nelson had questioned their strategy and drawn attention to the delay in commencing substantive settlement discussion with the IRS, as the heirs had been urging, with the consequence of greatly prolonging the closure of the Estate and distribution of assets to the elderly heirs.

histrionics and scorched-earth litigation tactics that have been Fredrikson's calling card throughout this proceeding. Mr. Hall, his colleagues and his firm Nelson Mullins are more than qualified to serve as tax advisors for the Heirs. As his CV demonstrates, Mr. Hall has an exemplary reputation and a stellar record of achievement in the tax field going back decades. He currently serves as Chair-Elect of the ABA Section of Taxation, served as president of the American College of Tax Counsel from 2018 to 2020, currently serves as Trustee for the American Tax Policy Institute, and served as North Carolina State Chair for the American College of Trust and Estate Counsel. (8/13/21 Wells Decl. ¶ 2, Ex. A at 4). Mr. Hall has been designated a Chambers USA Band 1 Leading Lawyer for his tax practice, a North Carolina Super Lawyer for his tax practice, and a Best Lawyer in America for both his tax and trusts and estates practices. (*Id.* ¶ 3, Ex. A at 5).

Comerica claims that Mr. Hall is unqualified because he has no estate experience, but entirely ignores the contents of his CV, which references his estate planning experience literally in the opening sentence, and goes on to detail his achievement and recognition in the area of trusts and estates. (*Id.* ¶¶ 2-3, Ex. A at 4). Mr. Hall's colleague, Maurice D. Holloway, is also tax advisor to the PRN Parties. As his CV indicates, Mr. Holloway has decades of experience in probate administration, trusts and estates litigation, and estate planning. (*Id.*, Ex. A at 15-16).

Comerica suggests that the PRN Parties resorted to engaging Mr. Hall and Nelson Mullins because they couldn't find any attorneys to advise them who focus on estate planning or handle IRS negotiations. (Reply, at 18). This is mere speculation and conjecture, and is based entirely on the false premise that Mr. Hall and Nelson Mullins lack any relevant experience. As discussed above, and set forth in the accompanying CVs, both estate planning and federal tax practice before the IRS are a substantial part the practice of Mr. Hall and his colleagues. (8/13/21 Wells Hall Decl. ¶¶ 2-3, Ex. A at 4-15). Moreover, in addition to the services offered by its tax controversy



### **III. THE COURT SHOULD INSTITUTE PROTOCOLS FOR WINDING DOWN AND ENDING THE ENGAGEMENT OF THE ESTATE'S ENTERTAINMENT ADVISORS.**

The PRN Parties and Primary Wave are in full agreement that Troy Carter's role as entertainment advisor to the Estate needs to be concluded as soon as possible. Comerica has ignored the Heirs and Interested Persons' concerns that it is inefficient and burdensome to continue to pay Carter extravagant sums to procure often expensive and complicated deals that may continue to bind the Heirs and Interested Persons well after they have taken over possession and management of the Estate assets. Now that closure of the Estate is approaching, Comerica needs to take action to end Carter's engagement as an advisor.

[REDACTED]

[REDACTED] (8/27/21 Reply at 24; Bruce Decl. ¶ 12). Comerica needs to commit to this now and set forth a plan for how it will be implemented, taking into account any terms of Comerica's arrangement with Carter as they may relate to his termination and the closure of the Estate. The Heirs and Interested Persons do not want to have this issue languish and then find themselves in a situation where, upon imminent closure of the Estate, they are forced to continue to retain Carter past the Estate's closure date.

Comerica spends far more time in its response defending Mr. Guy's engagement by the Estate than defending Mr. Carter's. However, by Mr. Guy's own admission, he is not making entertainment deals for the Estate and is not responsible for generating revenues on its behalf. (Guy Decl. ¶ 15). He operates in a managerial support capacity, taking the administrative burden off Comerica by coordinating the day-to-day management of certain of the Estate's entertainment-related dealings. It is understandable that Comerica would value someone who is making its job easier, but the larger issue is the extent to which some or all of Mr. Guy's services comprise the

sort of administrative work that Comerica should be handling internally, rather than paying substantial advisory fees. At a minimum, the PRN Parties seek greater transparency in disclosing what Mr. Guy does and particularly what compensation he is receiving from the Estate, which is not made clear in the Interim Accounting. [REDACTED]

While consistently undercutting and dismissing opportunities for the Heirs and Interested Persons to participate in and contribute to generation of revenues by the Estate, Comerica continues to vigorously defend its decision to pay high-priced consultants from the Estate's funds when such costs and expenses are unnecessary. Upon close inspection of the fees and commissions made by these advisors and consultants, compared to the revenues generated directly from their services, the insistence on maintaining the same level of involvement with these advisors is causing unnecessary expense to the Estate and is impeding an efficient closure and transition of management to the Heirs and Interested Person. This is particularly true where, as here, the Estate, as currently run, [REDACTED]

[REDACTED]. (See McMillan Decl., Ex. A, Tr. at 18:19-24; Interim Accounting From 2/1/20 to 1/31/21 at 1-2).

**IV. THE COURT SHOULD INSTITUTE PROTOCOLS LIMITING TRANSACTIONS INVOLVING NEWLY-CREATED ASSETS OR REQUIRING THE HEIRS AND INTERESTED PERSONS TO PARTICIPATE IN THEIR ASSESSMENT.**

The PRN Parties and Primary Wave are in full agreement that, at this stage, deals involving newly-created assets must be curtailed or else carefully scrutinized, and that the Heirs and Interested Persons should have a role in this process. Minn. Stat. § 524.3-715, which sets forth twenty-nine separate "transactions authorized for the personal representative," does not authorize

the creation and exploitation of new assets.<sup>9</sup> While Comerica relies heavily on language in Minn. Stat. § 524.3-711 granting a Personal Representative “the same power over the title to property of the estate that an absolute owner would have,” this language does not address the creation of entirely new assets by a personal representative. The language Comerica cites in the comments to the Uniform Probate Code states that the power over title “is conceived to embrace all possible transactions that might result in a conveyance or encumbrance of assets, or in a change of rights of possession.” But Comerica’s creation of a new asset results in neither a conveyance of title, an encumbrance of title nor a change of rights in title. Instead, it involves the creation of an entirely new asset not previously part of the Estate – a unique and separate activity. Since there exists no authorization for this activity under the statutes, it should now cease, or the Court should institute the PRN Parties’ proposed protocols.

Transactions involving newly-created assets need to be carefully considered because they may concern assets that Prince did not contemplate exploiting while he was alive, or assets that he may have chosen not to exploit, or they may seek to exploit new assets in a way that Prince would have disapproved of. The PRN Parties have pointed to Minn. Stat. § 524.3-715(24) as an example of where the Probate Code has placed limitations on the personal representative by limiting its power to continue the decedent’s business. While this subsection applies to unincorporated businesses, it is analogous to the creation of new assets because it contemplates the personal representative’s posthumous continuation of a business run by the decedent. Specifically, § 524.3-

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<sup>9</sup> Comerica cites several subsections of 524.3-715 but none of these authorize a personal representative to create and exploit new assets. Specifically, the personal representative’s powers to “retain assets” (524.3-715(1)), “acquire and dispose of an asset for cash and on credit” (524.3-715(6)); “vote stocks or other securities” (523.3-715(12) and “sell or exercise stock subscription or conversion rights” (524.3-715(19)) do not encompass the creation and exploitation of an entirely new asset that did not previously exist and was not previously part of the Estate or even previously exist.

715(24) requires that the personal representative must continue the decedent's business in the same "business form," and, if the personal representative seeks to incorporate the business and continue it beyond four months, it must have unanimous consent of all the distributees. The statute gives deference to the form in which the decedent originally chose to run his business, and to the distributees for whom the long-term running of the business will have implications. In the absence for any express statutory requirements regarding the Personal Representative's creation of new assets, the same deference should be granted, as set forth in the analogous context of § 524.3-715(24).

The protocols the PRN Parties proposed are eminently reasonable, and Comerica has not provided any legitimate basis for its opposition to them. The PRN Parties' requests in this regard only encompass a very small subsection of all the entertainment deals, specifically, newly-created assets not in existence at the time of Prince's death in their current form, and which have since been created by the Estate and/or its advisors for the purposes of exploitation. In opposing these proposed protocols, Comerica has raised the specter of the PRN Parties hindering a deal by objecting to any inclusion of an unreleased recording on a deluxe album, but an unreleased recording is not a newly-created asset, so this is not a legitimate concern.

The proposed protocols seek disclosure of information on transactions involving newly-created assets in the same manner as Significant Entertainment Transactions, and would provide an expedited process for the parties to discuss any issues and, if necessary, bring the issue before the Court. Moreover, objections can only be brought before the Court by a majority of interest holders, effectively ensuring that all the Heirs and Interested Persons, including the PRN Parties and Primary Wave, must be in agreement. For deals going forward, the Heirs and Interested Persons, as stewards of Prince's legacy and eventual managers of his business interests, are the

ones who will be bound to and associated with these deals after Comerica has been discharged. In light of the imminent closure of the Estate, and the heavy impact that any further newly-created asset transactions will have on the Heirs and Interested Persons as they take over and commence their management of the estate assets, these protocols should be granted.

**V. THE COURT SHOULD APPROVE THE ESTATE'S PAYMENT OF A FINANCIAL ADVISOR TO ADVISE THE HEIRS ON ISSUES RELATING TO ESTATE ACCOUNTINGS AND FINANCIAL DISCLOSURES.**

The PRN Parties have requested that the Estate engage financial advisors on behalf of the Heirs to assist them in reviewing and analyzing the Estate's financial disclosures in view of the eventual closure and takeover of asset management. Comerica have opposed this request, largely on the basis that, three years ago, SNJ opposed a request from the other three heirs for the Estate to provide a fixed sum of \$100,000 to those heirs to use to perform their own cash flow analysis, which the Court denied.

As an initial matter, Comerica has claimed that the Court, in adjudicating this prior request, ruled that there is no basis under Minnesota law for an estate to spend funds on advisors for beneficiaries for the Estate. (Comerica Reply, at 28). This is false. While Comerica made this argument in its briefing of the issue, the Court's order, which enumerates specific bases for its denial of the motion, contains no such ruling. (7/12/20 Order and Memorandum Denying Request for Financial Valuation Documentation and Payment of Fees, at 2-3).

The circumstances of the other heirs' 2018 request and SNJ's current request are readily distinguishable. As the Court found, the other Heirs' request sought to duplicate the cash flow analysis already performed by the Estate, and the existence of duplicative analyses could potentially be detrimental to resolution of the Estate's tax liabilities. (*Id.* at 3). SNJ opposed the request primarily on the basis that the other heirs were seeking a cash flow analysis to use in

connection with private loans that they had taken out individually against their interest in the Estate, and that the request was therefore entirely for their benefit and not the Estate's. (6/22/18 SNJ's Response to Request to Order Financial Valuation Documentation).

The critical distinctions here are that the PRN Parties are not now seeking to duplicate the Personal Representative's work, and that their request is not directed to their own individual benefit. The PRN Parties are not requesting the services of an advisor in order to recompute financial calculations already performed by Comerica. The Heirs are not currently advised by accountants and they are seeking an advisor to help them fully understand the contents and implications of the Estate's financial disclosures, and provide sound advice thereon. As explained by Mr. McMillan at the July 23, 2021 hearing, the Estate accountings are exceedingly complex and even sophisticated business persons with knowledge of the Estate's business are not always able to understand all the nuances. (*See* 7/23/21 Transcript at 15-18). The advice sought by the Heirs is not duplicative because Comerica, as it has explained, merely discloses numbers (8/27/21 Reply, at 28-29), Comerica has not provided any explanation or further analysis concerning its financial disclosures, nor made itself available to answer questions. Indeed, for the past several months, Comerica's policy has been to force any issues that SNJ raise immediately into mediation.

Importantly, the PRN Parties will soon be taking over the management of the Estate's extensive assets. It is no longer sufficient to simply review the accounting, the Heirs must not only fully understand what the current numbers say but also what the financial implications are for when the Estate closes and the assets come under the control of the Heirs and Interested Persons. In particular, these determinations are crucial in regard to the Estate's final accounting, which has not yet been provided. Facilitating successful and efficient transition of this complex Estate from the Personal Representative to the beneficiaries who will manage the assets going forward is a

legitimate expense of Estate administration, and retaining financial advisors to counsel the Heirs on these matters will provide direct and tangible benefits to the Estate.

**CONCLUSION**

For the foregoing reasons, the PRN Parties respectfully request that the Court institute the protocols requested in its August 13, 2021 Motion to Institute Protocols to Facilitate Closure of the Estate.

Dated: September 14, 2021

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