

Fredrikson

& BYRON, P.A.

August 4, 2017

VIA E-FILE AND E-SERVE

The Honorable Kevin W. Eide
Judge of the District Court
Carver County Justice Center
604 East 4th Street
Chaska, MN 55318

REDACTED

Re: *In re The Estate of Prince Rogers Nelson*
Court File No. 10-PR-16-46

Dear Judge Eide:

We write on behalf of Comerica Bank & Trust, N.A., in its role as personal representative (“Personal Representative”) of the Estate of Prince Rogers Nelson (the “Estate”), to provide the Court with guidance regarding the appointment of a special administrator

During the parties’ telephone conference with the Court on July 28, 2017, certain parties raised questions and suggestions regarding the appointment of a special administrator. The Personal Representative’s guidance on those matters follows. In addition, enclosed is a proposed order regarding the appointment of a special administrator based on

I. A SPECIAL ADMINISTRATOR IS THE PROPER PARTY TO INVESTIGATE AND, IF WARRANTED, PURSUE CLAIMS ON BEHALF OF THE ESTATE.

During the July 28 telephone conference, certain parties questioned whether a special

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administrator was the correct party to investigate and pursue claims on behalf of the Estate. Because a special administrator is the only party with standing to pursue claims on behalf of the Estate in a situation where the Personal Representative has a conflict of interest, appointment of a special administrator is necessary to [REDACTED]

Minnesota's Uniform Probate Code provides that a special administrator may be appointed "to preserve the estate or to secure its proper administration, including its administration in circumstances where a general personal representative cannot or should not act." Minn. Stat. § 524.3-614. The comment to Section 3-614 of the Uniform Probate Code explains that one of the circumstances where appointment of a special administrator is warranted exists where the general personal representative cannot participate in a transaction because of a "conflict of interest." (Ex. A.)

Once appointed, a special administrator has "the power of a general personal representative except as limited in the appointment and duties as prescribed in the order," and "[t]he appointment may be for a specified time, to perform particular acts or on other terms as the court may direct." Minn. Stat. § 524.3-617. Notably, the powers of a general personal representative (which apply to a special administrator under Section 524.3-617 unless limited by the Court) include standing to pursue claims on behalf of the Estate. Minn. Stat. §§ 524.3-703, 524.3-715(22). Other persons, including beneficiaries of an estate, ordinarily do not have standing to pursue claims on behalf of the estate against third-parties, including third-parties that perform duties on behalf of the estate. *See Goldberger v. Kaplan, Strangis & Kaplan, P.A.*, 534 N.W.2d 734, 738-39 (Minn. Ct. App. 1995) (explaining that estate beneficiaries do not have standing to pursue malpractice claims against a law firm hired by a personal representative); *but see* Minn. Stat. § 524.3-720 (explaining that if, after demand, a personal representative fails to pursue a claim on behalf of the estate "any interested person" may then pursue the claim).

As a result, a special administrator appointed under Minn. Stat. § 524.3-614 is the only party who would have standing to [REDACTED]

On a related note, certain parties questioned the propriety or feasibility of appointing an attorney as special administrator. In our experience, it is common for an attorney to be appointed special administrator by a Court, and the Probate Code specifically permits a special administrator (who has the same powers as a personal representative under Minn. Stat. § 524.3-617, except to the extent limited by the Court) to retain his or her own law firm to assist in the performance of the special administrator's duties. Minn. Stat. § 524.3-715(21) (authorizing personal representative to employ attorneys "even if they are associated with the personal representative, to advise or assist the personal representative in the performance of administrative duties"). As a result, we see no issues with respect to the Court appointing an attorney as special administrator, and that

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attorney using his or her law firm to [REDACTED]

**II. THE SPECIAL ADMINISTRATOR SHOULD HAVE THE DISCRETION
NECESSARY TO ACCOMPLISH [REDACTED]**

Certain parties during the July 28 telephone conference also raised suggestions regarding [REDACTED]

[REDACTED] The Court has discretion to limit the powers and duties of a special administrator, impose terms on the appointment of a special administrator, and direct a special administrator to perform "particular acts." Minn. Stat. § 524.3-617. [REDACTED]

[REDACTED]

[REDACTED]

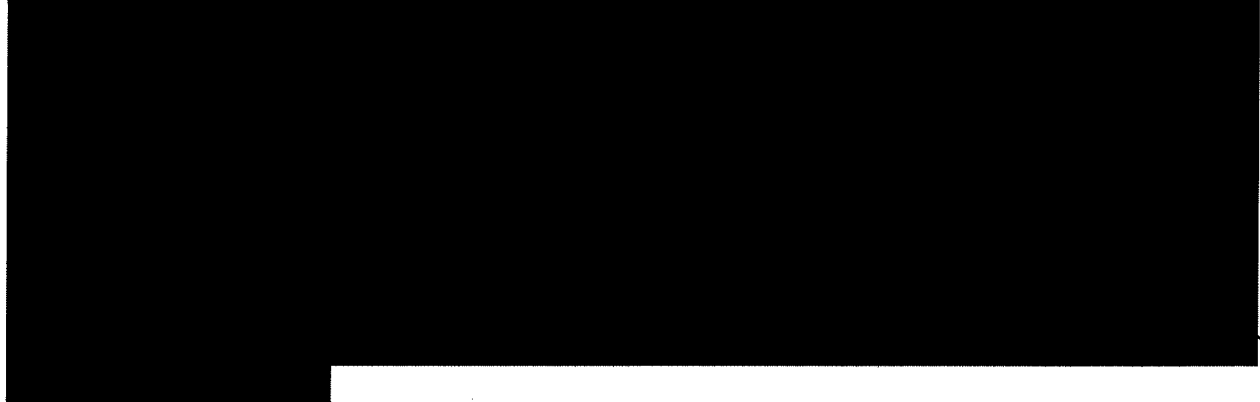
[REDACTED]

[REDACTED]

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Like a personal representative, a special administrator is a fiduciary “who shall observe the standards of care in dealing with the estate assets that would be observed by a prudent person dealing with the property of another . . .” Minn. Stat. § 524.3-703(a); Minn. Stat. § 524.3-617.



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Please do not hesitate to contact us with any questions related to this matter.

Respectfully submitted,

s/ Joseph J. Cassioppi

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Enclosure
JJC/js/61894293

UNIFORM PROBATE CODE (1969)
(Last Amended or Revised in 2010)

Drafted by the

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ON UNIFORM STATE LAWS

and by it

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EXHIBIT A

personal representative was a party, and no notice, process or claim which was given or served upon the former personal representative need be given to or served upon the successor in order to preserve any position or right the person giving the notice or filing the claim may thereby have obtained or preserved with reference to the former personal representative. Except as otherwise ordered by the court, the successor personal representative has the powers and duties in respect to the continued administration which the former personal representative would have had if his appointment had not been terminated.

SECTION 3-614. SPECIAL ADMINISTRATOR; APPOINTMENT. A special administrator may be appointed:

(1) informally by the Registrar on the application of any interested person when necessary to protect the estate of a decedent prior to the appointment of a general personal representative, or if a prior appointment has been terminated as provided in Section 3-609;

(2) in a formal proceeding by order of the court on the petition of any interested person and finding, after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration including its administration in circumstances where a general personal representative cannot or should not act. If it appears to the court that an emergency exists, appointment may be ordered without notice.

Comment

The appointment of a special administrator other than one appointed pending original appointment of a general personal representative must be handled by the court. Appointment of a special administrator would enable the estate to participate in a transaction which the general personal representative could not, or should not, handle because of conflict of interest. If a need arises because of temporary absence or anticipated incapacity for delegation of the authority of a personal representative, the problem may be handled without judicial intervention by use of the delegation powers granted to personal representatives by Section 3-715(21).