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May 8, 2017

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

VIA E-FILE - REDACTED

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

Dear Judge Eide:

This letter is an informal motion brought by Sharon L. Nelson, Norrine P. Nelson, and John R. Nelson ("Sharon," "Norrine," and "John," collectively referred to as "SNJ"), asking the Court to enforce its March 22, 2017, Order [REDACTED] until SNJ are able to review and receive advice from a third-party of their choice. After receiving the March 22, 2017, Order, SNJ submitted a request for a non-disclosure agreement form from Comerica for their business advisor, L. Londell McMillan ("McMillan"). Comerica, however, refused to provide SNJ with a non-disclosure agreement because Comerica believes that McMillan should not be entitled to review information. Precluding SNJ from obtaining an advisor of their choice restricts their ability to be "strong advocates of their positions on how the Estate should be managed" as contemplated by the Court in appointing Comerica.

Background

The administration of one of the most famous Estates in Minnesota history continues to move forward with Comerica Bank & Trust P.A. ("Comerica") at the helm as personal representative as appointed by the Court. Several urgent matters press forward as



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Comerica continues to familiarize itself with the Decedent Prince Rogers Nelson's ("Prince") complex assets and previous business dealings, among other items. While Comerica attempts to grasp the situation and begins to work with an entertainment advisor, material differences of opinion issues continue to develop regardless of Comerica's preparedness, with lasting potentially irrevocable decisions and implications for the Estate and its presumptive heirs.

[REDACTED]

Without question, the Non-Excluded Heirs, including SNJ, have significant interests in these developments and preserving the Estate they stand to inherit. Comerica's decisions also impact the Non-Excluded Heirs' interests as family members of the Decedent. Despite those interests, Comerica refuses to allow SNJ to receive assistance from an advisor of their choice to review business transactions valued at \$2 million or more, assistance that is clearly authorized by the Court's March 22, 2017, Order. Accordingly, SNJ seek an order compelling Comerica to agree to a non-disclosure agreement allowing for SNJ to obtain assistance from an advisor of their choice including, but not limited to, McMillan. [REDACTED]

As the Court has noted: "The unique and extraordinary nature of this probate is undeniable." Comerica, despite all its resources, recognized that complexity in its previous pleadings and has now retained an entertainment adviser, Spotify executive Tony Carter. Despite Comerica's acknowledged need for outside consultants and the Non-Excluded Heirs' recognized interests in receiving information and participating in the Estate matters, Comerica sought to limit the Non-Excluded Heirs' involvement by submitting protocols that provided only five days' notice of transactions over \$2 million in value and did not allow the Non-Excluded Heirs to obtain expert advice on these complex matters. (Mar. 3, 2017 Proposed Order at pp. 3, 6-7.) SNJ thereafter successfully petitioned for additional notice of business transactions and the ability to consult advisors about confidential business information subject to a non-disclosure agreement. These rights were incorporated into the Court's March 22, 2017, Order Regarding Application of Existing Orders and Protocols to the Personal Representative. (Mar. 10, 2017 Objection to Proposed Order Re Application of Existing Orders and Protocols to the Personal Representative, at pp. 4, 6.) The Court recognized the interests of Non-Excluded Heirs and determined "that it is appropriate to impose limited restrictions on and guidelines for the Personal Representative in this matter." (March 22, 2017 Order Re Application of Existing Orders and Protocols to the Personal Representative, at p. 2.) Two of those restrictions are relevant to SNJ's current request:

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3. The Personal Representative is authorized to enter into any lawful business transactions, including related to licensing or otherwise exploiting the entertainment assets of the Estate, that the Personal Representative deems appropriate and necessary to maximize the value of the Estate and its assets; provided, however, that the Personal Representative shall provide the Non-Excluded Heirs notice at least 14 business days prior to entering into any transaction under which the Personal Representative reasonably anticipates receiving more than \$2 million in value, including to allow the Non-Excluded Heirs an opportunity to seek Court relief with respect to any such transaction. It is the intent of the Court that the Personal Representative not be required to provide advance notice to or seek the approval of the Non-Excluded Heirs for routine licensing, exploitation, and other contractual matters. The Personal Representative shall, however, keep the Non-Excluded Heirs informed (reporting on at least a monthly basis) regarding the assets and business transactions of the Estate.

8. As to the sharing and disclosure of confidential information (including confidential business information and genetic testing results) by the Personal Representative, either pursuant to this Order or in the exercise of the Personal Representative's discretion to share confidential information when not required by this Order, the Personal Representative is authorized to limit such disclosure to the Non-Excluded Heirs and their counsel, with the understanding that the Personal Representative will have the discretion to share such information in a manner that does not compromise any applicable attorney-client and work product protections or hamper the confidentiality needed for future business and tax purposes. *Specifically with respect to confidential business information involving any transaction under which the Personal Representative reasonably anticipates receiving more than \$2 million in value, the Personal Representative shall disclose to the Non-excluded Heirs and their counsel such information as is necessary for them to make a knowledgeable assessment of the merits of the proposed transaction. The Non-excluded Heirs and their counsel shall not disclose such confidential business information to third parties without that party first entering into a non-disclosure agreement in a form approved by the Personal Representative.*

(*Id.* at pp. 4, 7) (emphasis added).

Despite the provisions in the Court's Order, the importance of the initial licenses to the Estate, and the fact that SNJ constitute half of the presumed heirs of this Estate, Comerica seeks to deprive them of the advisor of their choice.

SNJ retained McMillan to provide them with advice regarding business and entertainment matters. He provided advice without compensation or contract before the Court's personal representative determination and was subsequently formally retained by SNJ on January

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20, 2017. They rely on McMillan's advice, counsel, and insight regarding business transactions as they pertain to the Estate and the interests of SNJ as beneficiaries.

The interested parties are all aware of the relationship between SNJ and McMillan. In fact, two of the other Non-Excluded Heirs dislike McMillan's presence and have made matters difficult as a result. McMillan acknowledged the advisory relationship with SNJ during the hearing on January 12, 2017; the same hearing where counsel for Omarr Baker ("Omarr") and Tyka Nelson ("Tyka") declined to examine him regarding their vociferous, repetitive, and vague allegations filed and then publicly disseminated regarding previous activities related to the Estate. Omarr and Tyka's antipathy to McMillan has already been at issue in multiple filings submitted to the Court, including submissions before issuance of the March 22, 2017 Order. Their attorneys have continued to levy allegations against McMillan, although the allegations have apparently recently shifted focus to Charles Koppelman. As noted by counsel for McMillan in their May 2, 2017 letter, the allegations against him remain a series of conjecture, false claims, and overstatements.

[REDACTED]

Although it has not revealed the conclusions of any investigation, and McMillan has not had an opportunity to be heard, Comerica claimed that the Estate is now adverse to McMillan in light of the April 5, 2017, Order directing Comerica to investigate whether any action should be pursued for the return of the commission paid to McMillan in connection with the Tribute Concert. It should be noted that it has not been established that the Tribute Concert is an Estate asset or matter subject to Comerica's control or involvement. Counsel also claimed heightened concerns regarding "recent revelations" involving Charles Koppelman and suggested that he and McMillan were "partners" without evidence.

Despite SNJ's willingness to obtain a non-disclosure agreement and their substantial interest in the Estate, Comerica is refusing to allow them to receive advice from an advisor of their choice. Comerica's decision to micromanage SNJ's business relationships obstructs their ability to meaningfully participate in the Estate administration and their own personal business interests. Accordingly, SNJ seeks the Court's assistance in enforcing the March 22, 2017, Order Regarding Application of Existing Orders and Protocols to the Personal Representative. [REDACTED]

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Argument

I. The March 22, 2016 Order Permits SNJ to Obtain Advice from Advisors of Their Choice Through Use of a Non-Disclosure Agreement.

The March 22, 2016 Order specifically stated that "[t]he Non-Excluded Heirs and their counsel shall not disclose such confidential information to third parties without that party first entering into a non-disclosure agreement in a form approved by the Personal Representative." The Order did not give Comerica, as the Personal Representative, the discretion to restrict the Non-Excluded Heirs work with third parties and withhold the referenced non-disclosure agreement. Instead, the Order balanced the Non-Excluded Heirs' ability to obtain advice while providing Comerica the choice of form of the non-disclosure agreement to promote necessary confidentiality. The Court made no reference to preventing SNJ from consulting McMillan, even though his relationship with SNJ has been before the Court since the personal representative appointment proceedings. Therefore, it is beyond Comerica's authority as personal representative to interfere with SNJ's relationship with McMillan.

II. Comerica's Refusal to Provide a Non-Disclosure Agreement Creates Undue Hardship For SNJ.

SNJ have a relationship with McMillan and forcing them to obtain additional and different advisors imposes undue hardship. The Court recognized the importance of the Non-Excluded Heirs being able to consult with their advisors in its March 22, 2017, Order. Comerica, however, has interfered with SNJ consulting with McMillan, who has undisputed unique knowledge of the Decedent and the Estate's assets. Without his advice, SNJ are at a disadvantage because they are forced to wade through the current business deals without an informed expert or are forced to retain additional counsel and incur additional costs and expense for a different advisor. Given the sophisticated issues in play and the limited pool of individuals with knowledge of the Decedent, this undeniably creates unjustified hardship for SNJ. As noted above, Comerica presents limited support for imposing such strain.

This burden is particularly troublesome as it appears that Comerica is denying SNJ the advisor of their choice while seemingly allowing other Non-Excluded Heirs' relationships with individuals who have potential conflicts. For example, Tyka and Omarr have both received legal representation from Anthony "Van" Jones ("Jones"). Like McMillan, he was a proposed co-personal representative and provides advice to Non-Excluded Heirs. Jones appeared in numerous matters throughout the Estate administration, including challenging Bremer's discharge. Jones testified about his involvement in negotiating the agreement with Warner Bros. that seemingly obstructed the agreement with Universal Music Group and acknowledged a significant relationship with Phaedra Ellis-Lampkins. SNJ presumes Jones is maintaining confidentiality, just as McMillan will continue to do.


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III. McMillan is Not Adverse to the Estate and, Even if He Becomes Adverse, a Non-Disclosure Agreement Allows SNJ to Seek His Advice.

The record does not establish any actual adversity between the Estate and McMillan. Although the April 5, 2017, Order required Comerica to investigate whether McMillan should compensate the Estate to-date, Comerica has apparently made no determination, and certainly no determination has been communicated to McMillan or SNJ. Even if Comerica demands payment and establishes that the Tribute Concert is part of the Estate, McMillan's response is still unknown. As such, there is no actual adversity.

Even if Comerica and McMillan later conflict regarding the Tribute Concert matters, it does not logically follow based on case law and the facts in this situation that he should be precluded from advising SNJ on the confidential business transactions. A district court has wide discretion when fashioning a protective order for the parties and witnesses in discovery procedures, and the protective order or procedure adopted will differ based on the type of action, the issues being litigated, and the additional surrounding circumstances. *Baskerville v. Baskerville*, 246 Minn. 496, 75 N.W.2d 762, 769 (1956); see *In re Glaxo SmithKline pic*, 732 N.W.2d 257 (Minn. 2007) (holding that the district court has discretion to issue protective orders for the purpose of protecting an individual or organization's association right).

Typically, protective orders are the means chosen to prevent the disclosure of confidential information. Even in cases requiring the utmost discretion and confidentiality, such as trademark or patent cases, protective orders are frequently used. See *Northbrook Digital, LLC v. Vendio Services, Inc.*, 625 F. Supp. 2d 728, 733 (D. Minn. 2008) (holding that a protective order was warranted when defendant moved for a protective order in patent infringement action where confidential information was involved); *In re Glaxo SmithKline pic*, 732 N.W.2d 257 (holding that the confidentiality agreement and protective order regarding documents provided to the state limited the state's discretion in disclosing the documents under the Minnesota Government Data Practices Act). Here, like a protective order, there is no discernible reason why a non-disclosure agreement would not sufficiently protect the Estate. There is no discernable risk to the Estate if McMillan has access to information going forward. The Tribute Concert was over a year ago, The



It appears Comerica is acting overzealously in matters involving McMillan, likely because of the continuous and aggressive filings by counsel for certain Non-Excluded Heirs asserting unproven wrongdoing on his behalf. As noted in his filings last week and subsequent letter on May 2, 2017, there has been no affirmative showing of wrongdoing by McMillan. (Apr. 26, 2017 Mem. in Support of Mot. to Quash Subpoena Duces Tecum.) Moreover, there is no suggestion in the record that McMillan would violate a protective

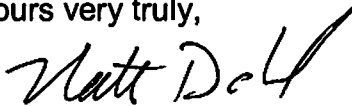
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order or non-disclosure agreement. Accordingly, Comerica's refusal to approve a non-disclosure agreement is excessive and unjust.

Conclusion

SNJ ask this Court to enforce its March 22, 2017, Order and allow them to make informed decisions as they review complex transactions with advice from a third-party of their choice. SNJ represent one-half of the Estate's beneficiaries and have selected McMillan as their business advisor. Comerica should abide by the Court's previous Order and respect SNJ's decisions in overseeing an Estate of which they represent one-half of the likely beneficiaries. [REDACTED]

Yours very truly,



Nathaniel A. Dahl

NAD/RAF

cc. Joseph Cassioppi (via E-File)
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