

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
FIRST JUDICIAL DISTRICT
PROBATE DIVISION
Case Type: Special Administration

In the Matter of:

Court File No. 10-PR-16-46
Judge Kevin W. Eide

Estate of Prince Rogers Nelson,

Decedent.

**PROPOSED ORDER REGARDING
ESTATE PROTOCOLS**

The above-entitled matter came before the undersigned on December 13, 2019 pursuant to the motion of Primary Wave Music IP Fund I, LP (“Primary Wave”) for recognition as an interested person under Minnesota Statutes § 524.1-201(33).

On March 22, 2017, the Court entered an “Order Regarding Application of Existing Orders and Protocols to the Personal Representative” (“Protocol Order”), designed to provide guidance to the parties following the appointment of Comerica Bank & Trust, N.A., as Personal Representative (“Personal Representative”) of the Estate of Prince Rogers Nelson (“Estate”). Among other provisions, the Protocol Order included protocols regarding the confidentiality of certain Estate information, compensation for the Personal Representative and its agents, and approval protocols for transactions for which the Estate expects to receive more than \$2 million in revenue. The Court has subsequently supplemented the Protocol Order with additional guidelines and requirements related to the administration of the Estate, including in orders dated May 25, 2018 and April 23, 2019.

Much has changed related to the Estate since the Protocol Order was entered almost three years ago. Most significantly, while in early 2017 the parties interested in the Estate consisted

primarily of the six siblings of the Decedent (the “Siblings”), taxing authorities, and a small number of creditors, that list has since expanded to include the estate of the deceased Sibling Alfred Jackson, multiple law firms that have obtained substantial attorneys’ liens against the interests of certain Siblings, and Primary Wave, which has purchased portions of the expectancy interests held by Siblings Alfred Jackson and Tyka Nelson. The Court has also been forced to address the ramifications of the unauthorized disclosure of confidential information belonging to the Estate by individuals associated with certain of the Siblings.

By motion dated November 21, 2019, Primary Wave sought formal recognition as an interested person in this proceeding. However, in its papers and at oral argument, Primary Wave asserted that, in addition to being recognized as an “interested person” as that term is defined in Minnesota’s Uniform Probate Code, the Court should afford Primary Wave the same rights as the Heirs in this matter, including those set forth in the Protocol Order, as amended. The Personal Representative did not contest Primary Wave’s request to be recognized as an interested person, but opposed the broader relief sought by Primary Wave. Specifically, the Personal Representative pointed out that many of the rights afforded the Siblings by the Court are beyond those provided in the Probate Code and the Court should exercise its discretion in limiting the rights of other interested parties, such as Primary Wave, to what are provided in the Probate Code.

At the December 13, 2019 hearing on Primary Wave’s motion, the Court requested that the Personal Representative and Primary Wave each submit a proposed order addressing amendments to the Protocol Order in light of the current facts and circumstances of this Estate. Based on those submissions and all the files, records, and proceedings herein, the Court hereby makes the following:

ORDER

1. The Probate Code defines an “Interested person” to include:

heirs, devisees, children, spouses, creditors, beneficiaries and others having a property right in or claim against the estate of a decedent, ward or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purpose of, and matter involved in, any proceeding.

Minn. Stat. § 524.1-201(33). By nature of the partial expectancy interests that Primary Wave purchased from Alfred Jackson and Tyka Nelson, Primary Wave qualifies as a person with “a property right in or claim against” the Estate and, therefore, is an interested person. But that does not mean that Primary Wave is now an “owner” of the Estate, as it asserted in its motion, or that the Court is required to provide Primary Wave the same level of access and input into the administration of the Estate previously provided to the Siblings.

2. Ordinarily, under the Probate Code, a personal representative has “the same power over the title to property of the estate that an absolute owner would have,” and “[t]his power may be exercised without notice, hearing, or order of court.” Minn. Stat. § 524.3-711. Unless specifically limited by the Court, those powers include the ability to enter into the twenty-nine categories of transactions set forth in Minn. Stat. § 524.3-715. A personal representative, however, holds the property of the estate in trust “for the benefit of the creditors and others interested in the estate.”

3. Based on the extraordinary circumstances of this Estate, the Court placed certain limitations on the otherwise broad discretion provided to a personal representative under the Probate Code. The limitations were designed to allow the Siblings, as the Decedent’s natural heirs and family, to have a role in shaping the Decedent’s legacy. Those same considerations do

not exist with respect to other interested persons, such as Primary Wave and the attorney-lien claimants. As a result, the protocols and other provisions set forth herein are designed to: (1) continue to allow the Siblings to have information regarding, and a role in providing input into, decisions of the Personal Representative that directly impact the Decedent's legacy; (2) allow all interested persons (including Primary Wave) to have the information necessary to protect their interests in, or claims against, the Estate; (3) permit the Personal Representative to administer the Estate in as efficient a manner as possible under the unique circumstances of this Estate; and (4) preserve the confidentiality obligations of the Estate and its managed entities. For the avoidance of doubt, nothing herein is intended to limit or otherwise modify the rights available to all interested persons under the Probate Code.

4. Unless otherwise expressly limited herein, the Personal Representative shall have all of the powers of a personal representative under the Probate Code as set forth in Minn. Stat. § 524.3-701, *et seq.*

5. The Personal Representative may not sell the parcels of real property located at 539 Newton Ave. N., Minneapolis, MN, 115 King Creek Road, Golden Valley, MN, 3420 Snelling Ave., Minneapolis, MN, 7801 Audubon Road, Chanhassen, MN, 55317 and 8020 Park Place, Chanhassen, MN 55317 without permission of the Court, after having provided all interested persons notice and an opportunity to be heard.

6. The Personal Representative is authorized to enter into any lawful business transaction, 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 Omarr Baker, John Nelson, Norrine Nelson, Sharon Nelson, and Tyka Nelson (the "Living

Heirs”) notice at least 14 business days prior to entering into any entertainment transaction under which the Personal Representative reasonably anticipates receiving more than \$2 million in value, including to allow the Living 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 the Living Heirs or any other interested person for routine licensing, exploitation, and other contractual matters. The Personal Representative shall, however, keep the Living Heirs informed (on at least a monthly basis through meetings, communications or otherwise) regarding the assets and business transactions of the Estate. The Personal Representative shall also keep other interested persons (including Primary Wave and the Estate of Alfred Jackson) reasonably informed regarding the assets and business transactions of the Estate, including, with respect to Primary Wave and the Estate of Alfred Jackson, through providing monthly account statements, accountings, and fee applications. In keeping interested persons informed regarding the administration of the Estate, the Personal Representative should provide information reasonably related to the interests of each interested person, but consistent with the confidentiality obligations of the Estate and its managed entities and the Personal Representative’s need to efficiently administer the Estate.

7. The Personal Representative is authorized to retain accountants, appraisers, entertainment industry experts, counsel, realtors, and other professionals the Personal Representative deems necessary to administer the Estate, pursuant to terms the Personal Representative determines are reasonable under the circumstances. Nothing herein shall limit the Personal Representative or any interested person from seeking Court review of the propriety of the employment of any agent by the Personal Representative or the reasonableness of an agent’s compensation pursuant to Minn. Stat. § 524.3-721.

8. The Personal Representative is authorized to receive compensation pursuant to Minn. Stat. § 524.3-719. Counsel for the Personal Representative are also entitled to fees, costs, and expenses pursuant to Minn. Stat. §§ 525.515, 524.3-720, and 524.3-721. As set forth in the Court's Order dated April 23, 2019, on or prior to February 28, 2020, the Personal Representative shall petition the Court regarding the amount of its compensation for the time period beginning February 1, 2020 through such future date as is appropriate, based on the then anticipated needs, activities and complexity of the Estate. In the meantime, the Personal Representative shall continue to seek approval of its compensation and that of its counsel in the manner set forth in the April 23, 2019 Order.

9. As to the sharing and disclosure of confidential Estate information by the Personal Representative, either pursuant to this Order or in the exercise of the Personal Representative's discretion to share confidential Estate information when not required by this Order, the Personal Representative is authorized to limit such disclosure to the Living Heirs and their counsel of record in this proceeding, 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 entertainment transaction under which the Personal Representative reasonably anticipates receiving more than \$2 million in value, the Personal Representative shall disclose to the Living Heirs and their counsel such information as is necessary for them to make a knowledgeable assessment of the merits of the proposed transaction. With respect to interested persons other than the Living Heirs, the Personal Representative may share and disclose confidential Estate information that the Personal Representative reasonably believes is related to

the interest each interested person has related to the Estate, again 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. No interested person shall disclose confidential business information to third parties unless specifically authorized to do so by the Court or the Personal Representative.

10. As a condition of receiving any confidential information related to the Estate, Primary Wave shall: (1) certify under penalty of perjury that Primary Wave and all of its affiliated entities have destroyed all confidential Estate information (including any copies or derivative works created using confidential Estate information) Primary Wave obtained from any party prior to the date of this Order (including, but not limited to, Michael Lythcott and/or Gregg Walker); (2) obtain a similar certification under penalty of perjury from any person to whom Primary Wave or any of its affiliates provided confidential Estate information (“Recipients”) that each Recipient has destroyed all such confidential Estate information (including any copies or derivative works created using confidential Estate information); and (3) execute a non-disclosure agreement in the form provided by the Personal Representative. For the avoidance of doubt, nothing herein shall be construed as requiring the Personal Representative to provide confidential Estate information to Primary Wave to the extent that doing so would result in a violation of any agreement to which the Estate or any of its managed entities is a party, or if providing such information could hamper the confidentiality needed for future business and tax purposes.

11. As a condition of receiving any confidential information related to the Estate, the personal representative of the Estate of Alfred Jackson shall execute a non-disclosure agreement in the form provided by the Personal Representative. For the avoidance of doubt, nothing herein

shall be construed as requiring the Personal Representative to provide confidential Estate information to the personal representative of the Estate of Alfred Jackson to the extent that doing so would result in a violation of any agreement to which the Estate or any of its managed entities is a party, or if providing such information could hamper the confidentiality needed for future business and tax purposes.

12. Nothing herein precludes the Personal Representative from seeking Court approval for transactions and agreements by formal request of the Court, even if not required under this Order, with notice and an opportunity to be heard as required by the Court.

13. The Personal Representative is authorized to employ subpoenas pursuant to Minn. R. Civ. P. 45, as well as the discovery means addressed by Minn. R. Civ. P. 26-37. *See* Minn. Stat. § 524.1-304. The Personal Representative is also authorized to utilize interstate depositions and discovery, including requesting the issuance of subpoenas pursuant to the authority of courts in jurisdictions outside of Minnesota, with this Order serving as the Court's authorization of the Personal Representative to seek appropriate legal process in other jurisdictions for the purposes discussed above. To the extent notice to all parties is required, *see, e.g.*, Minn. R. Civ. P. 45.01(e), the Personal Representative shall provide notice to the interested persons, including those entitled to notice pursuant to Minn. Stat. § 524.3-204.

14. Consistent with Minn. Stat. § 524.3-504, the Personal Representative shall not make any distribution from the Estate without prior order of the Court after providing notice and an opportunity to be heard to all interested persons.

Dated: _____, 2020

BY THE COURT:

Kevin W. Eide
Judge of District Court

NOTICE: A true and correct copy of this Order/Notice has been served by EFS upon the parties. Please be advised that orders/notices sent to attorneys are sent to the lead attorney only.