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STATE OF MINNESOTA

COUNTY OF CARVER

DISTRICT COURT
PROBATE DIVISION
FIRST JUDICIAL DISTRICT
Court File No.: 10-PR-16-46
Judge Eide

Estate of

Prince Rogers Nelson,

Decedent.

VENITA JACKSON LEVERETTE'S OBJECTION TO SPECIAL ADMINISTRATOR'S PROPOSED INTERIM ORDER

INTRODUCTION

On or about August 8, 2016, Special Administrator Bremer Trust (hereinafter "Special Administrator") filed a proposed order captioned as a "[Proposed] Interim Order Regarding Estate Administration Following the Court's July 28, 2016 Order" (the "Proposed Order"), presumably with a request that the court approve it and sign it. Through the Proposed Order, the Special Administrator seeks, in essence, the court's "blessing" to exclude from all further communications in this case any of the parties who were denied DNA testing pursuant to the order of July 28, 2016 (the "July 28th Order").

Venita Jackson Leverette ("Ms. Leverette"), one of the parties impacted by the July 28th Order, objects to the Proposed Order and urges that the court not adopt it. As explained more fully below, the Proposed Order is unnecessary, impractical, and amounts to a near-complete abrogation the Special Administrator's duties in this case *viz.* Ms. Leverette and other similarly-situated parties.

OBJECTION AND ARGUMENT

"A special administrator appointed by order of the court in any formal proceeding has the power of a general personal representative except as limited in the appointment and duties as

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prescribed in the order." Minn. Stat. § 524.3-617. A personal representative is held to the standard of a fiduciary. Minn. Stat. § 524.3-703(a). Additionally, a personal representative has a duty to settle and distribute the estate in compliance with the terms of applicable law and any probated, effective will "as expeditiously and efficiently as is consistent with the best interests of the estate." Id. In performing such duties, the personal representative shall exercise its authority in "the best interests of successors to the estate." Id.

It is well-established that a special administrator, like a personal representative, is also held to the standard of a fiduciary. In re Palm's Estate, 210 Minn. 87, 297 N.W. 765 (1941). As such, there can be no question that the Special Administrator in this case is under the same fiduciary duties that attach to personal representatives, including the duty to exercise its authority in the best interests of the successors to the estate.

As long as Ms. Leverette retains her right to appeal the July 28th Order, she remains a potential heir to the Prince Estate. While her appeal rights are pending the Special Administrator cannot, consistent with its fiduciary duties owed to all potential heirs, ask the court to in essence "bless" the Special Administrator's wish to curtail communications regarding the estate and the DNA testing activities to only a sub-set of the parties who have appeared. Nothing in any existing order or in applicable law specifically grants the Special Administrator this authority, and with good reason.

First, Ms. Leverette, as well as all other parties who may still appeal the July 28th Order, has a practical need for real-time access to information about all DNA testing. Her appeal rights and her opportunity to undergo DNA testing may very well be affected by not only the results of other tests, but how the other tests are conducted. Specifically, she will need current and timely notification of when test samples are submitted, when testing occurs, how the chain of custody is

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handled, and the test results themselves. The Special Administrator's Proposed Order would establish additional procedural hurdles for Ms. Leverette and others to obtain this information, including (a) an initial request to the Special Administrator as "gatekeeper" of this information, (b) a requirement to appeal any denial of the request to the court, and (c) a requirement to negotiate an "appropriate stipulation" with the Special Administrator prior to receiving the information. See Proposed Order, at ¶¶ 3-4. Not only has the Special Administrator failed to provide any evidence that furnishing the DNA testing information to all parties on an equal basis would somehow compromise confidentiality, the Special Administrator has offered no compelling reasons as to why it should be given the power to impose this burdensome procedure.

Second, as a potential heir, Ms. Leverette has a similar need for real-time access to information about business transactions, on the same terms as all other parties. The distinct possibility remains that the appeal could result in Ms. Leverette undergoing DNA testing, and – her DNA test could reveal that she is an heir to the Prince Estate. In the meantime, Ms. Leverette cannot, and should not, be expected to simply trust that the estate assets will be managed appropriately while she is kept in the dark and excluded from the discussions about Special Administrator's business decisions. Under the terms of the Special Administrator's Proposed Order, any party who succeeds on appeal and/or receives a positive DNA test would be tasked with retroactively reviewing these past transactions, and potentially challenging them – likely resulting in further motion practice and complications down the road.

It appears that the Special Administrator's principal concern in seeking further direction from the court via the Proposed Order is its wish to preserve confidential business information. Yet there is no evidence that any of the parties that the Special Administrator seeks to exclude through the Proposed Order have ever compromised the confidentiality of any business or DNA

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testing information. Both Ms. Leverette and her counsel have, at all times, adhered to the Special Administrator's requests that specified information be kept confidential, and will continue to do so throughout the life of this case. The Special Administrator's apparent belief that the Proposed Order is necessary to preserve confidentiality is overstated and unsupported.[1]

The Special Administrator's Proposed Order seeks, in essence, the court's permission to abrogate its fiduciary duty towards a group of potential heirs. The fact that the Special Administrator in this case is the same party that has, in an adversarial manner, taken the initiative to "lead the charge" in excluding Ms. Leverette and other parties from DNA testing that could have otherwise proved heirship, and now seeks to further exclude Ms. Leverette and other parties from the ongoing exchange of information, is particularly troubling, and is wholly at odds with the Special Administrator's fundamental duty to deal fairly with all interested parties. The Proposed Order is unnecessary, will lead to additional controversies and motion practice later in the proceedings, and should be denied.

CONCLUSION

Based upon the arguments and authorities set forth above, Ms. Leverette respectfully requests that the court reject the Special Administrator's request for an interim order limiting access to information. While Ms. Leverette's appeal rights are pending, she should have the same access to all case information as the non-excluded parties, subject to the same terms and conditions that apply to all parties not excluded by the July 28th Order.

[1] The Special Administrator's concerns about the confidential handling of business and DNA testing information could be addressed in a stipulated protective order – something that the Special Administrator has not proposed. Instead, the Special Administrator seeks court approval for a broad grant of authority to unilaterally pick and choose with whom information will be shared, and under what terms and circumstances, regardless of the Special Administrator's fiduciary obligations to the estate and the beneficiaries.

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