



July 23, 2018

**VIA E-FILING & EMAIL**

The Honorable Richard B. Solum  
2950 Dean Parkway, #2502  
Minneapolis, MN 55412

**REDACTED VERSION**

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

Dear Judge Solum:

We are writing on behalf of Comerica Bank & Trust, N.A. ("Personal Representative"), in response to your Order dated July 14, 2018, and the submissions of Thomas Kane on behalf of Cozen O'Connor ("Cozen") and of Justin Bruntjen (collectively, "Heirs' Counsel"). The Personal Representative reserves the right to supplement its response following the hearing or in the event that Heirs' Counsel or other parties make additional submissions.

*Fees Submitted for Reimbursement by Heirs' Counsel*

On July 10, 2018, Mr. Bruntjen and Cozen provided the parties with revised spreadsheets reflecting the categorized fees that each is seeking. Mr. Kane also submitted an affidavit detailing the basis for the categories of fees claimed. Mr. Bruntjen has indicated that his affidavit is forthcoming. We have not received anything from Frank Wheaton, although we understand that he submitted a spreadsheet to Your Honor. We requested a copy of that spreadsheet from Mr. Wheaton, but as of the submission of this letter have not received anything.

During March 2017, Mr. Bruntjen submitted \$519,317.00 of fees and expenses to the district court for reimbursement by the Estate. The district court ordered payment of \$54,926.25. (April 5, 2017 Order.) Based on conversations with Mr. Bruntjen and a review of his July 10 spreadsheet, the Personal Representative understands that he is no longer seeking reimbursement for time entries involving communications between him and his client or other entries not benefitting the Estate. As a result, Mr. Bruntjen has reduced the amount of unreimbursed fees he is seeking by half, from \$455,390.75 to \$229,065.50.

In March 2017, Cozen submitted \$846,057.00 of fees and expenses to the district court for

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reimbursement by the Estate. The district court ordered payment of \$159,240.75. (April 5, 2017 Order.) Based on conversations with Mr. Kane and his affidavit and spreadsheet, the Personal Representative understands that Cozen is no longer seeking reimbursement for travel and entertainment expenses. As a result, Cozen has reduced the unreimbursed fees that it is seeking by \$45,359.75, from \$686,816.25 to \$641,456.50.

Compliance with Minn. Stat. § 524.3-720

The Court of Appeals outlined four circumstances in which Minn. Stat. § 524.3-720 permits reimbursement of attorneys representing interested persons:

- (1) if an “interested person . . . successfully opposes the allowance of a will”;
- (2) if “after demand the personal representative refuses to prosecute or pursue a claim or asset of the estate . . . and any interested person . . . by a separate attorney prosecute[s] or pursue[s] and recover[s] such fund or asset for the benefit of the estate”; (3) if “a claim is made against the personal representative on behalf of the estate and any interested person . . . by a separate attorney prosecute[s] or pursue[s] and recover[s] such fund or asset for the benefit of the estate”; and (4) if “the services of an attorney for any interested person contribute to the benefit of the estate, as such, as distinguished from the personal benefit of such person.”

(Jan. 22, 2018 Minn. Ct. App. Order at 8-9.) The Court of Appeals instructed the district court, on remand, to make specific findings regarding which of these circumstances apply to the Heirs’ Counsel’s fees and then to determine the reasonableness of the fees (for the second circumstance) or the benefit to the Estate (for the other three circumstances) for the work performed. (*Id.* at 14-15.)

The Personal Representative believes that at least some of the fees and expenses for which Heirs’ Counsel seek reimbursement fall into three of the four circumstances identified by the Court of Appeals.

First, Heirs’ Counsel seek reimbursement for opposing heirship claims after the Special Administrator declined to do so. While the Special Administrator developed a protocol for the submission and review of heirship claims, it did not take a position with respect to the validity of specific heirship claims. That task was left to Heirs’ Counsel. The Heirs’ Counsel successfully opposed several improper claims of heirship, including the claims of Brianna Nelson, V.N., Venita Jackson Leverette, and several members of the Gresham family, which were the subject of substantial briefing and appeals. The district court’s decisions excluding these putative heirs were later upheld by the Court of Appeals.

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Second, Heirs' Counsel seek reimbursement for opposing the discharge of the Special Administrator and its agents. Heirs' Counsel have submitted time entries for their opposition to the discharge of Bremer Trust, N.A. under the categories "Special Administrator" and "Jobu Presents Agreement." While the Personal Representative takes no position regarding the discharge of Bremer Trust, N.A., Heirs' Counsel's opposition to its discharge resulted in the appointment of the Second Special Administrator and the claims it is currently pursuing on behalf of the Estate.

Third, at least three categories of fees for which Heirs' Counsel seek reimbursement appear to fall into the final circumstance outlined by the Court of Appeals, "services that contributed to the benefit of the estate, as such, as distinguished from the personal benefit of such person." (Jan. 22, 2018 Minn. Ct. App. Order at 9.)

- Personal Representative: The task of finding, vetting, and nominating a Personal Representative was undertaken solely by Heirs' Counsel without involvement by the Special Administrator. Heirs' Counsel successfully nominated Comerica Bank & Trust, N.A. as Personal Representative and successfully opposed the nomination of L. Londell McMillan as co-Personal Representative, [REDACTED]
- [REDACTED]: During August and September 2017, Heirs' Counsel successfully objected to a [REDACTED] have [REDACTED]. Thus, Heirs' Counsel's work in objecting [REDACTED] benefitted the Estate by [REDACTED]
- [REDACTED]: Certain of the time entries from September 2017 by Heirs' Counsel related to their objection to [REDACTED] Heirs Counsel's objections were overruled at the time and the District Court initially disallowed reimbursement of fees related to that objection. However, [REDACTED] Because circumstances have changed [REDACTED] likely provided a benefit to the Estate.

The Personal Representative does not take a position regarding the reasonableness of the fees and expenses charged by Heirs' Counsel or the ultimate value that their services provided to the Estate.

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With respect to Mr. Wheaton, because he has not submitted an affidavit or provided us his fee spreadsheets, we are not able to opine regarding whether or to what extent his services provided any benefit to the Estate.

Respectfully submitted,

*/s/ Joseph J. Cassioppi*

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