

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In the Matter of:

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

Estate of Prince Rogers Nelson,

Decedent.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, ORDER & MEMORANDUM
APPROVING PAYMENT OF
ATTORNEY'S FEES AND COSTS**

Before the Court is the Declaration of Mark W. Greiner Regarding Attorneys' Fees from October 2017 to January 2018 filed with the Court on February 15, 2018. The Declaration was submitted to the Court pursuant to the Court's Order filed March 22, 2017. The Declaration included 10 pages of a narrative declaration and 681 pages of Exhibits. On March 1, 2018 Sharon Nelson, Norrine Nelson and John Nelson (SNJ) filed their SNJ'S Objection to Comerica's Petition for Fees and Costs. In response, on April 11, 2018, the attorneys for Comerica filed Comerica Bank & Trust, N.A.'s Reply in Support of Petition for Fees and Costs for February 2018 through January 2019 and Response to the Nelson's Objection to Personal Representative's Petition for Fees and Costs; the Declaration of Joseph J. Cassioppi; and the Declaration of Angela W. Aycock. On April 13, 2018, SNJ filed a Reply Memorandum Objecting to Comerica's Petition for Fees and Costs.

On April 19, 2018, this Court issued an order directing the relevant parties to meet and confer, or to use mediation, to agree on a method of submission of requested fees and costs in a format that would allow the heirs and the Court to review the reasonableness of the fees and costs. The April 19th Order also directed the Personal Representative to provide the heirs and the Court with a projected cash flow analysis including pending or anticipated deals, revenue streams, all related expenses, and payment of anticipated estate taxes. Thereafter, on July 9, 2018, Comerica filed invoices for their attorneys' fees as incurred on a day by day basis and by subject matter. On April 30, 2018, Comerica filed with the Court its cash flow analysis as directed by the Court. The matter has been under advisement by the Court since July 9, 2018. Based upon the foregoing and supporting materials submitted to the Court, the Court makes the following:

FINDINGS OF FACT

1. Minnesota Statute Section 525.515(b) requires the Court to analyze five factors when considering the fairness and reasonableness of the fees being requested:
 - (a) The time and labor required;
 - (b) The experience and knowledge of the attorney;
 - (c) The complexity and novelty of problems involved;
 - (d) The extent of the responsibilities assumed and the results obtained; and
 - (e) The sufficiency of assets properly available to pay for the services.
2. The attorneys for the Personal Representative, whether they be the primary attorneys of Fredrikson & Byron or attorneys working in other countries or with more specific expertise, have filed detailed fee statements regarding the services that they have provided to this Estate. These statements have been scrutinized by Heirs' counsel who have objected to them and a few specific concerns have been raised and will be addressed in this order.
3. In the Declaration of Joseph J. Cassioppi filed April 11, 2018, Mr. Cassioppi sets forth a "day in the life" of his firm as it relates their representation of the Estate. He describes 9 different legal matters that were addressed that day. As this court reviewed the billing statements, the entries for November 20, 2018 on the revised billing statement filed on July 9, 2018 were noted. It appears that at least 28 different legal matters were addressed by 14 different attorneys or paralegals. This does not include counsel for other firms doing work for the Estate.
4. While the level of attorney fees has fallen from past years, the time and labor required, the wide variety of the experience and knowledge required of the attorneys, and the complexity and novelty of the issues remains high.
5. Heirs' counsel have argued that too many high-billing-rate attorneys are being used instead of lower cost associates. They have argued that too many attorneys are being used instead of limiting the number and, therefore, the need-to-know dissemination of information. The Fredrikson & Byron firm has responded that they are using associate attorneys when practical and the number of attorneys and paralegals being used is necessary to keep all the 'balls in the air.' In the Declaration of Joseph J. Cassioppi filed April 11, 2018, Mr. Cassioppi describes the need to use multiple attorneys and paralegals as well as the need to assign different matters to more experienced (and highly paid) attorneys or to younger associate attorneys. While SNJ complain

about the use of multiple attorneys and more experienced attorneys, the record is silent as to a basis for the Court to interject its own opinion as to how to run a law firm.

6. During the time period in question, the nature of the issues addressed by the Personal Representative and their attorneys are set forth in the Declaration of Mark W. Greiner filed on February 15, 2018. This includes the administration of an Estate that might well be analogized to the running of an international business. It includes the filing of tax returns and giving tax related advice. It includes the managing of litigation in multiple countries, multiple states and multiple jurisdictions within this State. It includes the negotiation, review and monitoring of multi-million dollar entertainment deals. It includes the valuation and sale of multiple parcels of real estate and the management of Paisley Park Studios through a third-party contractor. It involves the licensing and protection of intellectual property. The complexity and novelty of the issues remains high.

7. Throughout this proceeding this Court has tried to balance the efficient administration of this Estate with trying to provide the Heirs with input in the licensing and use of the legacy of Prince Rogers Nelson. SNJ have chafed against the control assumed by the Personal Representative and have attempted to have them removed, instead wishing to install their own advisors to run the Estate. The Personal Representative has repeatedly argued that they should not be subjected to the constant barrage of emails, insults, objections and motions. *See* Comerica Bank & Trust, N.A.s Reply in Support of Petition for Fees and Costs filed April 11, 2018. The Special Administrator, Bremer Bank, sought to be discharged from their role in this matter for the very same reason. The public nature of this matter, the need for transparency with the Heirs, the “obstructionist efforts” (as it is described in the Reply) and the Court imposed balancing act makes this proceeding uniquely complex.

8. As stated, SNJ sought the removal of the Personal Representative by their Petition filed October 27, 2017. The Court ultimately denied that Petition, concluding that their removal would not benefit the Estate, but rather result in turmoil, unnecessary fees for a transition and no clear and better successor. Fredrikson & Byron has billed approximately \$148,000 to respond to the Petition. SNJ now complain that Fredrikson & Byron should not be paid for that because it did not benefit the Estate. Such an argument is ludicrous. SNJ take no responsibility, through these actions and other obstructionist actions taken by themselves or their advisors, for substantially increasing the cost of these proceedings.

9. The Court has attempted to use mediation as a method of reaching consensus and keeping costs down and this appears to be partially successful. This was not in place during this billing period.

10. While the input of the Heirs has been valuable and there are occasions where a recommendation of the Personal Representative has not been followed, the Personal Representative has been successful in almost all of these disagreements with some of the Heirs. The Personal Representative has obtained successful results in almost all of their efforts in negotiation or litigation, entertainment deals, sale or management of land or other holdings, protection of intellectual property and the general administration of the Estate.

11. This Court continues to encourage the Personal Representative and all of the Heirs to be conservative and cost-effective when incurring fees or costs on behalf of the Estate. It is their fiduciary responsibility to the Estate. However, based upon the Cash Flow Analysis done by the Personal Representative, it appears that there will be sufficient funds to provide for the on-going administration of the Estate, the payment of estate taxes and the distribution of the music right assets to the Heirs.

12. After the Petition for the fees referenced herein, this Court directed the Personal Representative, their attorneys and counsel for the Heirs to meet and confer with the goal of agreeing on a form for the current and future billings that would assist Heirs counsel and the Court in determining the reasonableness of petitions for fees. The parties did meet and agreed on the format used in the July 9, 2018 submissions.

13. Attached to the Declaration of Mark W. Greiner Regarding Attorneys' Fees from October 2017 to January 2018 are Exhibits setting forth the fee invoices for Fredrikson & Byron and the various outside counsel that are assisting. Exhibit E sets forth the billing statement of the firm of Arnold & Porter Kaye Scholer LLP. There are two attorneys from Arnold & Porter Kaye Scholer LLP that are working on the Estate of Prince Rogers Nelson. Each of those attorneys submitted separate fee statements for each of the months for which they were billing. For each such fee statement, there were three pages even if there was only a single entry of time. There are perhaps 30 pages of invoices from Arnold & Porter Kaye Scholer LLP where the information could have easily been conveyed in perhaps three pages. As noted below there was a duplication contained in that fee statement. Obviously the tedious and repetitious nature of the fee statement led to the error. This can and should be corrected.

CONCLUSIONS OF LAW

1. Except as noted in this Order, The invoices for fees and costs submitted by the attorneys working for the Estate accurately state the time and labor required.
2. The administration of the Estate requires a wide variety of experience and knowledge of the attorneys involved. This is accomplished by the use of several attorneys with various areas of expertise and experience within the Fredrikson & Byron firm and through the use of outside counsel for specialties not available within that firm.
3. The complexity and novelty of problems involved remains high, partially due to the unusual nature of this Estate and due to the need for transparency and cooperation, or due to the lack thereof.
4. The law firm of Fredrikson & Byron, or firms selected to work with them, have taken on the full extent of the responsibilities required by this complex Estate and have been highly successful in the results obtained.
5. There are sufficient assets properly available to pay for the services required.

ORDER

1. The payment of fees and costs incurred through from October 1, 2017 through January 31, 2018, as reflected by the invoices of Fredrikson & Byron, P.A. filed with the Court on July 9, 2018, is APPROVED in accordance with Minnesota Statute §525.515 and §523.3-719, except as specifically referenced in the Memorandum attached hereto, which excludes \$6,762.50 invoiced by Fredrikson & Byron, and \$6,480.00 erroneously submitted twice on behalf of Arnold & Porter Kaye Scholer LLP.
2. The law firm of Fredrikson & Byron shall continue to provide invoices for their fees and services in the manner agreed upon by the parties and in the form of the July 9, 2018 submissions.
3. Fredrikson & Byron shall ensure that invoices submitted for outside counsel include concise descriptions of the firm's or counsel's work on behalf of the Estate, without including duplicative statements or summaries.

BY THE COURT:

Dated: September 7, 2018

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.

MEMORANDUM

In their two separate objections filed with the Court, SNJ addressed a number of general objections without giving the Court specifics as to invoice detail. SNJ do specifically object to the duplication of effort and this shall be specifically addressed.

SNJ first state that there is a legitimate concern that there will be nothing left for the Heirs at the end of the administration. While the Court has stated similar concerns as a direction to the parties to use caution in incurring fees and in making sure that decisions made on behalf of the Estate are cost effective, the cash flow analysis done by Comerica would indicate that this is not a legitimate concern. The Heirs have elected to attempt to maintain the rights to the Prince music catalog and the Estate is working to raise the necessary funds to pay off the taxes and distribute the assets to the Heirs. Hopefully, the assets can be distributed as soon as the estate taxes are paid off. It is likely, therefore, that there will be little cash when the Estate assets are distributed and the assets will consist of primarily the music rights. Obviously, the more cash that can be preserved to pay towards the taxes, the sooner the taxes can be paid off and the assets distributed.

SNJ argue that Comerica has sent two different, highly paid attorneys to meetings or hearings with no benefit to the Estate. They specifically reference oral arguments on October 26, 2017 and January 18, 2018, and a meeting with the Court on January 5, 2018. They argue that it may be nice for the second attorney to be present to hear the argument that they assisted in preparing for, but it is not beneficial to the Estate. It might be necessary for the second attorney to be advised of how an argument or meeting went but this could be done with a five minute phone call instead of attending the event. The Court agrees that the attorneys for Comerica have not demonstrated a commensurate benefit to the Estate by having one attorney argue a matter before the Court and have one or more additional attorneys listening to the argument. Comerica or Fredrikson & Byron can certainly have multiple attorneys attend a hearing but they shall only bill for one attorney and the time, if necessary, to update another involved attorney. Alternatively, they will need to clearly delineate the benefit to the Estate by having a second or third attorney present.

On October 26, 2017, Joseph Cassioppi argued the “fee appeal” before the Minnesota Court of Appeals and charged 5.1 hours for finalizing his preparations for and arguing the appeal. On the same date Emily Unger charged 3.3 hours for preparing for and attending the oral argument. The Court finds that the attendance of Ms. Unger was a decision made by the Fredrikson & Byron firm but it did not directly benefit the Estate. The Court is deleting the 3.3 hours (or \$1,221.00) charged by Ms. Unger from the bill.

On November 18, 2017, three attorneys from Fredrikson & Byron appeared for a hearing on the Petition for removal of Comerica as the Personal Representative of the Estate. Mr. Cassioppi billed 7.7 hours, Mr. Greiner billed 5 hours, and Ms. Unger billed 4.2 hours. Mr.

Cassioppi orally argued the matter on behalf of the Estate at the hearing. Mr. Greiner also billed for a “conference with Comerica team following the hearing regarding administration of the estate but this is not separately billed and the Court cannot discern what the time was for that conference. The Court is deleting the 5 hours (\$3,250.00) billed by Mr. Greiner and the 4.2 hours billed (\$1,554.00) by Ms. Unger from the bill.

On January 5, 2018, both Mr. Greiner and Mr. Cassioppi attended a conference with the Court regarding the first report of the Second Special Administrator. They charged a total of 11.3 hours for their attendance but this included other time entries. The Court perceives that Mr. Cassioppi has served as primary litigator in his role in representing the Estate whereas Mr. Greiner has taken more of an administrative role in coordinating other activities as well as the filing of Estate tax returns. In this case, the Court finds it wise and to the benefit of the Estate to have them both present. This was a cost/benefit discussion about the decision to pursue negotiation, mediation or litigation regarding losses incurred by the Estate and not one attorney listening to the presentation of an oral argument by another attorney.

On January 18, 2018, Mr. Cassioppi billed 4.1 hours to the Estate for preparing for and arguing the Patrick Cousins appeal before the Minnesota Court of Appeals. On the same date, Marie Williams billed 2.5 hours for attending the oral argument. Again, the Court finds that the attendance of Ms. Williams was a decision made by the Fredrikson & Byron firm but it did not directly benefit the Estate. The Court is deleting the 2.5 hours (or \$737.50) charged by Ms. Williams from the bill.

SJN argue that there was a duplication of billing on Exhibit E of the Greiner Declaration filed on February 15, 2018. That duplication exists within a billing submitted by the firm of Arnold & Porter Kaye Scholer LLP. Fredrikson & Byron responds that they were the ones who noticed the duplication and pointed it out to the counsel for the Heirs. The amount of the duplication has been refunded to the Estate. The Court agrees that there was a duplication contained in the billing for this period in the amount of \$6,480.00 and that the correct amount for the billing for October, 2017 through January, 2018 should be \$40,605.73.

K.W.E.