

STATE OF MINNESOTA  
COUNTY OF CARVER

DISTRICT COURT  
FIRST JUDICIAL DISTRICT  
PROBATE DIVISION

---

In Re:

Case Type: Special Administration  
Court File No: 10-PR-16-46  
Judge: Kevin W. Eide

The Estate of Prince Rogers Nelson,  
Decedent.

**SNJ, L. LONDELL MCMILLAN AND  
CHARLES SPICER'S RESPONSE TO  
PRIMARY WAVE'S STIPULATION  
AND PROPOSED ORDER AND  
MEMORANDUM IN SUPPORT OF  
MOTION TO AMEND PROTOCOLS**

---

This memorandum is submitted by Sharon Nelson, Norrine Nelson and Johnny Nelson (collectively, "SNJ"), L. Londell McMillan ("McMillan") and Charles Spicer ("Spicer") (all parties collectively, "Respondents"), as heirs and interested persons in the Estate of Prince Rogers Nelson ("Estate") in response to the Stipulation and Proposed Order Regarding Proposed Amended Protocols (the "Proposed Amended Protocols") filed by Comerica Bank & Trust, N.A. ("Comerica") and Primary Wave Music IP Fund 1, LLP and Primary Wave Music IP Fund 3, LLP (individually and collectively, "Primary Wave"). This Stipulation and Proposed Order was filed by Comerica on July 20, 2021, without consultation with or input from Respondents, which may have alleviated the need for this filing. In addition, this memorandum is written in support of Respondents' separate Motion to Amend Protocols.

Respondents do not oppose Primary Wave's request to receive the same information and communications as the Heirs of the Estate – and to amend the existing protocols - provided that McMillan and Spicer are allowed to receive the same information, and Respondents' separate motion requests that this Court amend the protocols accordingly. As McMillan and Spicer were involved with the Estate long before Primary Wave, and they are all Interested Persons, there is no

reason to treat McMillan and Spicer differently than Primary Wave when it comes to communication under the Estate's protocols. All of those with a percentage-based expectancy interest in the Estate should be entitled to the same information and subject to the same protocols.

The issue is a question of line drawing. Should the line between those with access to full information and those without full access be based on whether the person or entity is a natural heir or an individual or entity with an expectancy interest? If the answer is yes, then Primary Wave's acquisition of a greater expectancy percentage shouldn't make any difference. But, if the right to information does not depend on whether the individual is a natural heir or a person with an expectancy interest, then why should the percentage of expectancy be controlling? Respondents' position is that the Heirs and those who have an expectancy interest in the Estate should be treated the same when it comes to estate protocols, without regard to percentage of interest.

There is no rational reason why someone with a larger expectancy percentage should be entitled to more information than a person with a lower expectancy percentage. If Prince had created a will giving one beneficiary a higher percentage of the Estate than another, there is no reasonable basis in the Probate Code or elsewhere to allow the Personal Representative to give that beneficiary greater information. The duty to communicate has never been interpreted to allow the personal representative to dole out different amounts of information based on the percentage interest that a beneficiary or an heir has in an estate. It should work the same way when it comes to an expectancy interest. The fact that Primary Wave has increased its percentage of expectancy does not make it a natural heir, and that increased percentage should not give it the right to any more information than that given to those who also have an expectancy interest, even if that expectancy interest is a smaller percentage. To do so would only create more potential conflicts and lack of transparency which SNJ has sought to prevent for years now. As a result, Respondents

do not oppose Primary Wave's request, provided that the Court treats McMillan and Spicer in the same manner.

### **BACKGROUND**

#### **Primary Wave's Recognition as an Interested Person in the Prince Estate.**

On November 21, 2019, Primary Wave moved this Court to be recognized as an Interested Person in connection with its acquisition of portions of the expectancy interest acquired from two of the six Heirs to the Estate, Tyka Nelson and Alfred Jackson. Primary Wave sought an order entitling it "to participate fully in all proceedings on the same basis that Ms. Nelson and the other heirs are able to participate." (Memorandum In Support of Motion To Recognize Primary Wave Music IP Fund 1, LLP As An Interested Person, at 6).

Comerica invested Estate resources to formally oppose Primary Wave's motion, arguing that, *inter alia*, Primary Wave was not an Heir and should not be treated like an Heir by allowing Primary Wave access to confidential information or by being included in Comerica's decision-making. Specifically, Comerica argued that granting Primary Wave's motion would (i) "considerably impact the processes and communication developed by the Personal Representative over the past two-and-a-half years," (ii) "set a precedent for similarly situated third parties in the future that could render administration of this Estate virtually unmanageable;" and (iii) "create additional concerns" based on assertions that the Estate's entertainment partners had expressed concern about their confidential information being made accessible to a competitor. (Comerica's Response to Primary Wave's Motion For Recognition As An Interested Person, at 3-5). Additionally, Comerica pointed out that Primary Wave had previously received unauthorized access to the Estate's confidential information through third party sources and had refused to return or destroy it upon request. (*Id.* at 5).

Following an extensive and costly mediation between Primary Wave, Comerica, the Heirs, and SNJ Advisors, this Court issued an Order on March 26, 2020, recognizing Primary Wave as an Interested Person in connection with its share of expectancy interest from Tyka Nelson. The Court granted to Primary Wave, “as an interested person with a property right in the estate, the right to participate in the administration of the estate on a level similar to that of the other heirs of the estate, including, *inter alia*, access to certain confidential estate information, subject to certain limitations, restrictions, and conditions.” (*See* April 6, 2021 Order at 3.) The Court, in its March 26, 2020 order, imposed limitations by drawing certain distinctions between the access to Estate information afforded the Heirs in comparison with Primary Wave. (*See* March 26, 2020 Order at ¶ 6, 7, 10.)

In particular, the Court limited Primary Wave’s access to information regarding assets and business transactions of the Estate to a monthly telephone conference, agendas and minutes from heirs’ meetings and accounting and financial statements, and gave Comerica a right to withhold such information as it deemed necessary. (*Id.* at ¶ 6, 7). The Court also limited Primary Wave’s receipt of confidential business information to the extent that Comerica made best efforts to obtain consent from its entertainment partners to disclose to Primary Wave and such consent was granted. (*Id.* at ¶ 7).

On April 6, 2021, this Court further recognized Primary Wave as an Interested Person based on the settlement of challenges to the validity of an acquisition transaction in Mr. Jackson’s estate proceedings in Missouri. The Court incorporated the protocols set forth in the March 26, 2020 order by reference. Comerica, in consultation with Primary Wave and without consultation with the Respondents, filed the Proposed Amended Protocols on July 20, 2021.

**McMillan and Spicer's Recognition as Interested Persons in the Prince Estate.**

On May 3, 2021, this Court recognized McMillan and Spicer each as Interested Persons in connection with their individual acquisitions of a portion of the expectancy interest of each of the three other Heirs, Sharon Nelson, Norrine Nelson and John Nelson. Comerica instructed Respondents to obtain confirmation from Primary Wave that there would be no objection to McMillan and Spicer filing for recognition as Interested Persons, and neither Primary Wave nor any other party objected. Thereafter, following McMillan and Comerica's agreement on the terms of an NDA, Comerica provided McMillan and Spicer with confidential Estate information, including granting access to the Estate's business and legal document archive through Comerica's HighQ digital workspace platform.

Since that time, Respondents and Primary Wave have consulted and worked collaboratively, for the most part, in seeking a transition of the Estate and seeking to reduce, where appropriate, the fees and expenses incurred in administering the Estate. Based on a recent conversation between McMillan and Larry Mestel, CEO of Primary Wave after the filing of the Proposed Amended Protocols, Mestel advised that he had no objection to McMillan, Spicer and Primary Wave having access to Estate information on the same basis.

**Primary Wave and Comerica's Proposed Stipulation and Order.**

Comerica has now reversed its prior position and consulted with Primary Wave to amend the protocols in the March 26, 2020 Order that restricted Primary Wave's access to certain Estate information otherwise available to the Heirs. The parties filed the proposed Stipulation and Order with the Court (the "Stipulation and Order") in which they agree that any distinctions between the Heirs and Primary Wave in the protocols contained in the March 26, 2020 Order should be eliminated. Comerica did not offer McMillan or Spicer similar consideration with respect to this

matter, and did not consult or even notify Respondents of its position concerning the application of the protocols to McMillan and Spicer.

Although the Stipulation and Order does not specify which protocols are to be amended, when read together with the March 26, 2020 Order, it appears that the intent of each party is that Primary Wave should now receive access to all information provided to the Living Heirs in connection with all agreements and transactions entered into going forward, including information concerning Estate assets and business transactions through attendance at meetings and other communications (March 26, 2020 Order at ¶ 6); and confidential business information provided by prospective entertainment partners in connection with Significant Entertainment Transactions,<sup>1</sup> to the extent Comerica believes they do not violate confidentiality obligations in any pre-existing agreements. (*See id.* at ¶ 6.) Additionally, it is proposed that the parties shall participate in a mandatory meet and confer process concerning any confidential business information withheld by Comerica based on confidentiality concerns, with the burden placed on Comerica to seek relief from the Court if necessary.

### **DISCUSSION**

#### **I. MCMILLAN AND SPICER SHOULD BE GRANTED THE SAME ACCESS TO ESTATE INFORMATION AS PRIMARY WAVE.**

First and foremost, if the Court orders the Proposed Amended Protocols set forth in the proposed Stipulation and Order, they should be equally applied to McMillan and Spicer. Primary Wave, McMillan and Spicer each own a percentage-based expectancy interest in the Estate, but no party owns a majority share of the total expectancy interest. Notwithstanding the amount held by each party, Primary Wave, McMillan and Spicer are each similarly situated Interested Persons,

---

<sup>1</sup> “Significant Entertainment Transactions” are defined in the March 26, 2020 order as “any entertainment transaction under which the Personal Representative reasonably anticipates receiving more than \$2 million in value.”

each with an equally legitimate interest in the current and future value of their expectancy interest, and should be treated as such.

**A. No Distinction Should Be Drawn Between Primary Wave and McMillan and Spicer, as Similarly Situated Parties.**

Comerica has already taken the position that Primary Wave is entitled to receive the same level of information as the Heirs because it has acquired a larger share of the Estate interests, whereas McMillan and Spicer must be limited to some lesser amount of information based on their “smaller shares.” (*See* Declaration of L. Londell McMillan (hereinafter, “McMillan Decl.”), Ex. A at 3.) Again, no party holds a majority share of the expectancy interest in the Estate, and while McMillan and Spicer’s interests may be smaller than Primary Wave’s, they are not insignificant – in fact, they are potentially worth millions of dollars based on current projections of the Estate’s distributable assets.

As the Court is aware, McMillan and Spicer are both retained advisors to SNJ, and SNJ relies on them to provide sound and informed advice concerning the complex and far-reaching business activities of the Estate. SNJ have each conveyed and delegated to McMillan and Spicer the authority to act on their behalf in regard to estate management decisions relating to their interests. (*See* 3/12/21 Memorandum in Support of Motion to Recognize L. Londell McMillan and Charles Spicer as Interested Persons, Declaration of Alan I. Silver, Ex. A at ¶ 5.) Limiting the Estate information available to McMillan and Spicer will prevent them from effectively acting on behalf of SNJ. This result can only be detrimental to SNJ’s ability to stay properly informed and participate in the management of the Estate as is their right as living and natural heirs, and will serve only to further isolate SNJ (elderly heirs of Prince), as well as frustrate their healthy involvement with and oversight of the Estate’s administration as it moves toward closure.

Granting full access to information to Primary Wave while limiting such access to McMillan and Spicer would create an arbitrary distinction between similarly situated parties. It would also create, without basis, a sub-class of parties who have an equally legitimate interest in the value of their expectancy interest, but are relegated to receiving only limited information in order to preserve and protect those interests, while another party with a similar interest is granted full access to such information. As Personal Representative, Comerica “is a fiduciary who shall observe the standards of care in dealing with Estate assets that would be observed by a prudent person dealing with the property of another.” Minn. Stat. § 524.3-703(a). Under these circumstances, the Court should order Comerica to provide McMillan and Spicer with access to the same information as Primary Wave consistent with the fiduciary duty of impartiality. *See Matter of Great Northern Iron Ore Properties*, 263 N.W.2d 610, 621 (Minn. 1978) (recognizing fiduciary duty of impartiality requires “equal consideration for the interests of all beneficiaries”).

**B. Primary Wave, McMillan and Spicer Are Parties “Having A Property Right,” But Are Not Heirs.**

The Minnesota 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.” Minn. Stat. § 524.1-201(33). Importantly, the statute draws a distinction between heirs and “others having a property right.”

By virtue of the expectancy interests they have acquired, Primary Wave, McMillan & Spicer each have a property right in the Estate, but they are not Heirs. Nor does any party control a majority of interest in the Estate. However, the proposed Stipulation and Order is opaque as to Primary Wave’s role in the Estate’s decision-making process – namely, whether Primary Wave has, through its acquisition of the expectancy interests of Tyka Nelson, Alfred Jackson and Omarr



Baker, also acquired the right and authority to act on behalf of, and in place of, each of those Heirs, in regard to their input and interaction with the management of the Estate, during Comerica's administration and/or upon the Estate's closure.

Respondents request that, in order for all parties to have a complete understanding of the relative roles of the Heirs and Interested Persons in the closure and ultimate management of the PRN assets post-closure, Comerica and Primary Wave clarify the extent to which Primary Wave has acquired the right to act on behalf of, and in place of, Tyka Nelson, Omarr Baker and Alfred Jackson.<sup>2</sup>

**C. Allowing McMillan and Spicer Access to the Same Information As Primary Wave Will Not Adversely Affect the Estate.**

Applying the amended protocols to McMillan and Spicer will not cause any significant impact to Comerica's processes and communication. Comerica has already agreed to provide this information to Primary Wave. It will simply mean copying McMillan and Spicer on the same disclosures of information. To the extent Comerica later feels that sharing information equally with Primary Wave, McMillan and Spicer is causing a demonstrable and detrimental impact to its processes or communications, it may always seek to discuss among the parties, pursue mediation and, if resolution cannot be achieved, bring the issue before the Court.

Nor will applying the amended protocols to McMillan and Spicer set a precedent for other Interested Persons to demand and receive the same access. Respondents are not suggesting that Primary Wave's proposed amended protocols should be applied to all parties qualifying as

---

<sup>2</sup> Based on arguments made in Primary Wave's November 21, 2019 Motion For Recognition as An Interested Person, it appears that Tyka Nelson assigned Primary Wave the right to be attorney-in-fact and to act on her behalf in regard to the portion of her interest that was not acquired by Primary Wave – however it is not apparent whether this right extended to her entire acquired interest, nor are Respondents aware of any similar disclosure in regard to the acquisition of Alfred Jackson and Omarr Baker's interest.

“Interested Persons” under Minn. Stat. 524.1-201(33). Primary Wave, McMillan and Spicer are uniquely situated because they each own a percentage-based expectancy interest in the Estate. Unlike creditors or other parties who may simply hold a lien against the Estate for a fixed amount, they each have a legitimate and heightened interest in the Estate’s management and monetization of its assets as it relates to the value of their percentage-based share.

As this Court is aware, McMillan has decades of experience in the entertainment industry as well as a long-time business advisory relationship with Prince prior to his death and a deep understanding of the activities in the Estate. Both McMillan and Spicer are uniquely qualified by their background and experience to understand and analyze most of the Estate’s business, and to provide substantive and valuable feedback where necessary. As advisors to SNJ, they have a legitimate interest in receiving full access to Estate information in order to provide thorough and comprehensive advice to SNJ as the remaining heirs. Under these circumstances, they are uniquely situated and amending the information access protocols to include McMillan and Spicer will not create precedent “opening the door” to other Interested Persons.

Nor will allowing McMillan and Spicer access to the same information as Primary Wave create issues based on the potential concerns of Estate entertainment partners in having their information shared. Unlike Primary Wave, McMillan and Spicer are not competitors of the Estate’s entertainment partners. Additionally, both the Stipulation and Order and the current protocols contain safeguards to address potential confidentiality issues. First, confidential business information provided to the Heirs and Primary Wave is limited to information regarding Significant Entertainment Transactions, and is further limited to “such information as is necessary for them to make a knowledgeable assessment of the merits of the proposed transaction.” (March 26, 2020 Order ¶ 7). Second, Comerica retains the right to withhold information it believes would

breach confidentiality obligations in agreements entered into prior to the date the Stipulation is ordered, subject to a meet and confer process.

Both McMillan and Spicer have entered into comprehensive, binding non-disclosure agreements with Comerica that cover confidential business information provided by the Estate's entertainment partners. In light of these agreements, and the existing safeguards discussed above, there is no reason why McMillan and Spicer should be denied access to confidential business information, pursuant to the amended protocols set forth in the Stipulation and Order.<sup>3</sup>

In the interests of moving the Estate toward closure, as all parties have agreed is necessary, and in preparing the Estate for management following Comerica's discharge, all parties with a legitimate interest in the post-closure management and monetization of Estate assets in relation to their relative shares of the Estate should have an equal seat at the table regarding their access to Estate information.

## **II. COMERICA HAS UNREASONABLY REFUSED TO PARTICIPATE IN DISCUSSIONS CONCERNING MCMILLAN AND SPICER'S ACCESS TO ESTATE INFORMATION & OTHER MATTERS.**

In an August 2, 2021 email exchange, Mr. McMillan inquired why he had not been copied on a communication (a simple press release related to Prince's long-announced new album "Welcome2America") sent to Primary Wave and the Heirs.<sup>4</sup> Andrea Bruce replied that Comerica believed Primary Wave should now be included in a "broader line of communications" and that if

---

<sup>3</sup> Comerica originally opposed Primary Wave's motion for recognition as an Interested Person in part on the basis that Comerica had obtained unauthorized access to the Estate's confidential business information from third parties, and had then refused to return or destroy such information upon request. Based on Comerica's subsequent willingness to make confidential business information available to Primary Wave through the Stipulation and Order, there should be no issues in disclosing the same information to McMillan and Spicer.

<sup>4</sup> Regardless of whether this press release may or may not have comprised confidential material before, it has since been released and is a matter of public record.

Mr. McMillan had issue with his omission, he could raise the issue in a mediation session with Justice Gilbert. (McMillan Decl., Ex. A at 3-5). This response is consistent with a recurring pattern where Comerica has refused to engage with Respondents (especially on matters related to the transition and closure of the Estate) and instead has forced substantive issues immediately into mediation, where the process is often stalled and dragged out while hefty attorney and mediation fees continue to accrue. Respondents have been forced to mediate a number of issues in this manner, without any opportunity to first discuss them with Comerica, which is what the Court first intended when it provided in the protocols that the parties should mediate disputes “that cannot be addressed through open communication.” Comerica has been unwilling to engage in direct communication, but instead referred seemingly routine issues to mediation, where some have languished in mediation for weeks and months, with no progress made toward resolution

Here, Comerica was required by the Court to discuss access to Estate information with McMillan and Spicer following their recognition as Interested Persons. In the May 5, 2021 Order, this Court required that Respondents, the Heirs, Comerica and Primary Wave “shall consult with one another informally, or if necessary, through mediation.” (emphasis added). Respondents are raising this issue with the Court directly because Comerica has effectively short-circuited the communication and dispute resolution process by refusing to engage in good faith discussions and immediately forcing the issue into what it knows will be an expensive and highly drawn-out mediation process. This result serves only to increase the Estate’s legal fees and unnecessarily prolong the time it takes to resolve this issue and proceed with moving the Estate toward closure.

### **CONCLUSION**

For the reasons set forth above, Respondents respectfully request (i) that, in the event that the Court orders the proposed Stipulation and Order, that the Court also amend such information access protocols to apply to McMillan and Spicer in the same manner they apply to Primary Wave;

(ii) that Primary Wave provide Respondents with confirmation that Primary Wave has also acquired the right and authority to act on behalf of, and in place of each of Tyka Nelson, Alfred Jackson and Omarr Baker in connection with all Estate matters; and (iii) that if the Court grants Respondents relief by amending the protocols in the manner requested, that the Court also order that any attorney's fees incurred by the Personal Representative in filing the Proposed Amended Protocols and in opposing this motion shall not be charged to the Estate based on its refusal to confer in good faith with Respondents on this issue.

Dated: August 6, 2021

By: /s/ L. Londell McMillian  
L. Londell McMillan, Pro Se  
The NorthStar Group  
240 W. 35th, Suite 405  
New York, NY 10001  
Telephone: (646) 559-8314  
Facsimile: (646) 559-8318  
Email: llm@thenorthstargroup.biz

Dated: August 6, 2021

By: /s/ Sharon Nelson  
Sharon Nelson

Dated: August 6, 2021

By: /s/ Norrine Nelson  
Norrine Nelson

Dated: August 6, 2021

By: /s/ John Nelson  
John Nelson

Dated: August 6, 2021

By: /s/ Charles Spicer  
Charles Spicer