

REDACTED

STATE OF MINNESOTA

COUNTY OF CARVER

In Re: Estate of Prince Rogers Nelson,

DISTRICT COURT  
FIRST JUDICIAL DISTRICT  
PROBATE DIVISION

Court File No. 10-PR-16-46

Decedent.

**PETITIONERS' MEMORANDUM IN  
OPPOSITION TO THE SPECIAL  
ADMINISTRATOR'S REQUEST  
FOR THE COURT TO DE-DESIGNATE  
THE DOCUMENT ENTITLED  
"ARTIST EQUITY TERM SHEET"  
PRODUCED BY ROC NATION AS NOT  
"HIGHLY CONFIDENTIAL" OR  
"CONFIDENTIAL" UNDER THE  
COURT'S JANUARY 12, 2017  
CONFIDENTIALITY AND  
PROTECTIVE ORDER**

Roc Nation LLC ("Roc Nation"), Aspiro AB ("TIDAL") and WiMP Music AS ("WiMP") and together with TIDAL and Roc Nation, the "Petitioners", submit this memorandum in opposition to the Special Administrator's Request for the Court to De-Designate the Document Entitled "Artist Equity Term Sheet" Produced by Roc Nation as Not "Highly Confidential" or "Confidential" Under the Court's January 12, 2017 Confidentiality and Protective Order, dated January 23, 2017 (the "Request"). The Request of the Special Administrator amounts to a bad faith effort to walk-back an agreement that it signed just three weeks ago, finalized based on protracted and comprehensive negotiations that took place over approximately two months, and which agreement recently was so-ordered by this Court. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] For these and the other reasons discussed more fully below, the relief sought by the Request should be denied and the Artist Equity Term Sheet, dated July 19, 2015 (the “Equity Term Sheet”), should remain designated as “highly confidential” as the parties have agreed and as this Court has ordered.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] As conceded in the Request, the Special Administrator has been on notice of certain core terms of the Equity Term Sheet since at least November 11, 2016, the time when Petitioners filed their Petition for Allowance of Claim and Additional Relief (the “Petition”). *See* Request at 2–3. Recognizing the confidential nature of the Equity Term Sheet and other documents maintained by Petitioners, the parties undertook the process of carefully negotiating a Confidentiality Stipulation and [Proposed] Order (the “Confidentiality Stipulation”) prior to exchanging discovery. *See id.* at 5 (“The Special Administrator agrees that the [Equity Term Sheet] document itself states that it is confidential . . .”). The parties then finalized the Confidentiality Stipulation on January 3, 2017, the Special Administrator received an unredacted copy of the Equity Term Sheet on January 6, 2017, and the Court proceeded to

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<sup>1</sup> *See, e.g.,* Omar Baker and Tyka Nelson’s Objections to the Final Account Through 11/30/16, Final Account From 12/1/16 Through 12/31/16, And Petition for Order Approving Accounting, Distribution of Assets and Discharge of Special Administrator (generally discussing the Special Administrator’s lack of oversight over the estate advisors); *see also* Order Establishing Protocol for Finalizing Court-Approved Entertainment Agreements, dated November 23, 2016.



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] However, the Special Administrator misrepresents Petitioners' purported lack of amenability to sharing the Equity Term Sheet.<sup>2</sup> Indeed, quite the opposite is true. Pursuant to the Protective Order, a party's expert or consultant may receive discovery material designated as confidential (but not discovery material designated as highly confidential) upon signing a form consistent with Exhibit B to the Protective Order. Protective Order ¶ 9. Despite this limitation agreed to by the Special Administrator, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] once each signs an acknowledgement form as set forth in the Protective Order. [REDACTED]

<sup>2</sup> Petitioners produced the Equity Term Sheet to Comerica Bank & Trust N.A. ("Comerica") shortly after the filing of the Request pursuant to Comerica's signing of an Addendum to the Confidentiality Stipulation, dated January 25, 2017 (which is submitted herewith as Exhibit 1), whereby Comerica agreed to be bound to the terms of the Confidentiality Stipulation

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] By way of just one

example, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The Special Administrator’s abrupt about face on this

issue and sudden need for wide disclosure should not be countenanced.

*Second*, the Special Administrator also agreed – and the Protective Order provides – that it would “abide by the terms of any confidentiality provisions that exist within any previously executed agreements between those entities in the Discovery Material . . . .” Protective Order ¶ 3; *see also* Confidentiality Stipulation ¶ 3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The

Request should be denied on this basis as well.

In support of its tortured argument that the Equity Term Sheet should now be treated contrary to the terms of the Protective Order and Confidentiality Stipulation, the Special Administrator proffers two equally unavailing justifications. Specifically, the Special Administrator argues that the Equity Term Sheet should be de-designated as not “highly confidential” or “confidential” because: (i) Petitioners’ selective citation to the Equity Term Sheet in their Petition effected a waiver of confidentiality; and [REDACTED]

[REDACTED] Both of these arguments fail.

In their initial Petition to this Court, Petitioners outlined certain of the Equity Term Sheet’s core terms for purposes of setting forth the nature of Petitioners’ interest in the Decedent’s estate. [REDACTED]

[REDACTED] Indeed, if it had, there would be no need for this Request. Accordingly, the Equity Term Sheet cannot be considered “generally available to and known by the public” such that the obligations of the Protective Order do not apply. *See* Protective Order at ¶ 10; *see also* Request at 5. Had the Special Administrator construed the filing of the Petition to somehow strip the Equity Term Sheet of its confidentiality, then the Special Administrator never would have stipulated to the document’s highly confidential treatment in the first instance. Rather, the Petition’s description of the Equity Term Sheet highlights that the Special Administrator was aware of certain of the document’s core provisions – and, by extension, all of the bases for the instant Request – for several months and chose to negotiate and enter into the Confidentiality Stipulation anyway.<sup>4</sup>

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<sup>4</sup> To the extent the Court finds that the filing of the Petition waived any of the Equity Term Sheet’s confidentiality, such waiver would be limited to the provisions of the Equity Term Sheet that are expressly referenced in the Petition and would not extend to the document as a whole.

[REDACTED]

[REDACTED] The Protective Order and Confidentiality Stipulation also contemplate that third-party agreements will qualify for highly confidential or confidential treatment, as appropriate. See Protective Order ¶ 3 (“Petitioner and the Special Administrator shall abide by the terms of any confidentiality provisions that exist with any previously executed agreement *between those entities* in the Discovery Material.”) (emphasis added); *id.* at ¶ 5 (“Petitioner has designated as highly confidential . . . *any third-party or internal agreements* that require highly confidential treatment . . . .”) (emphasis added); Confidentiality Stipulation at ¶¶ 3, 5. [REDACTED]

[REDACTED]

[REDACTED]

Lastly, the Special Administrator's Request highlights the importance and appropriateness of the additional relief requested by Petitioners in their initial Petition. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Despite the Special Administrator's awareness of the Equity Term Sheet since at least the time the Petition was filed (in November 2016), Petitioners are concerned that the Special Administrator may be entering into business arrangements for the digital streaming of the Decedent's music that contravene the terms of the Equity Term Sheet and other of Petitioners' rights. That concern has been heightened due to recent media reports indicating that the Decedent's music will soon be available on the Apple and Spotify streaming services.<sup>6</sup> Specifically, any purported agreement providing another digital streaming service with either (i) exclusive streaming rights to Decedent's musical works or (ii) the right to use the Decedent's name or likeness for promotional purposes, would be in violation of the Equity Term Sheet. *See* Equity Term Sheet at 2. [REDACTED]

[REDACTED] Petitioners renew their request for advance notice of and an opportunity to be heard regarding any agreements that may affect Petitioners' claim and interest in the Decedent's estate (the "Additional Relief"). *See* Petition ¶¶ 46–51.

For all the foregoing reasons, Petitioners respectfully request that the Court: (i) deny the Special Administrator's Request to de-designate the Equity Term Sheet as not "highly

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<sup>6</sup> True and correct copies of these recent media reports are attached hereto as Exhibit 2.

confidential” or “confidential” under the Protective Order; (ii) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] and (iii) grant Petitioners’ request for Additional Relief.

Dated: January 30, 2017

Respectfully Submitted,

s/ Rodney J. Mason  
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[REDACTED]