

STATE OF MINNESOTA
COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
DISTRICT COURT
PROBATE DIVISION

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

In re:

Estate of Prince Rogers Nelson,

MEMORANDUM IN OPPOSITION
TO MOTION TO EXPAND THE AUTHORITY
OF THE SECOND SPECIAL ADMINISTRATOR

Decedent.

INTRODUCTION

Heirs Sharon Nelson, Norrine Nelson, and John Nelson (collectively “SNJ”) oppose the motion to expand the authority of the second special administrator. SNJ opposes the motion on the grounds that granting the motion will consume an unnecessary amount of valuable resources of the Estate of Prince Rogers Nelson (“Estate”) with little benefit. While SNJ believe that Peter Gleekel, the Court appointed Second Special Administrator (“SSA”) would conduct a thorough and fair investigation, the benefits to be gained by such an investigation are far outweighed by the likely cost to conduct it. Therefore, SNJ respectfully request that the Court deny the motion to expand the SSA’s authority to investigate whether any action should be pursued for return of the advance paid by Jobu Presents to the Estate related to the Prince Tribute Concert.

FACTS AND PROCEDURAL POSTURE

The Court is well aware of the facts surrounding Jobu Presents’ role in the Prince Tribute Concert. Relevant to this motion is Bremer Trust’s (“Bremer”) decision to return a large portion of the advance paid by Jobu Presents to the Estate when alleged issues arose surrounding the Tribute Concert. (Order Granting Special Administrator’s Request to Approve Payment of

Special Administrator's and Attorneys' Fees and Costs Through January 31, 2017 and Final Accounts and Inventory (dated April 5, 2017) ("April 5th Order"). In the April 5th Order, the Court found that Bremer Trust "did everything it could to stay out of the Tribute Concert, leaving it to the heirs to deal with, only to get dragged in at the last minute as things unraveled and time became critical. Now [Bremer] and its counsel are criticized for being too involved in the Tribute Concert." *Id.* at p. 10.

Nonetheless, the Court's order directs Comerica to conduct two relevant investigations: (1) to "investigate and make an informed decision whether any action should be pursued for the return of the commission paid to L. Londell McMillan in connection with the agreement with Jobu Presents to conduct the Tribute Concert;" and (2) to "investigate and make an informed decision regarding whether any action should be pursued for the return of the advance paid by Jobu Presents to the Estate for the right to conduct the Tribute Concert, which advance was subsequently returned to Jobu Presents." (April 5th Order, p. 5). In directing Comerica to conduct a further investigation, the Court noted that "[it] has no expectation that further proceedings in this regard are necessary or prudent, rather the Court is requiring this investigation in light of the concern raised by the heirs." (April 5th Order, p. 12). Now, over seven months later, those concerns should have been allayed.

The Court is also aware that a lawsuit over the Tribute Concert was initiated by Jobu Presents against a number of individuals and entities, including Bremer. (Court File No. 10-CV-17-368). That lawsuit is ongoing, but Bremer was recently dismissed as a defendant by the Court. (Order Granting in Part and Denying in Part Defendants' Motions to Dismiss (dated October 4, 2017)). As the Court concluded, Bremer could not "be found personally at fault for any actions and subject to liability pursuant to Minn. Stat. § 524.3-808(b) (2016)." *Id.* at p. 7.

The SSA currently bills at a rate of \$430 per hour. (Letter to Honorable Kevin W. Eide with Statement for Professional Services and Disbursements Rendered (dated October 18, 2017)). In the period between August 15, 2017 and September 30, 2017, the SSA and the firm of Larson King incurred fees of \$22,945.00 and costs of \$421.50. *Id.* For the month of October 2017, the SSA and the firm of Larson King incurred additional fees of \$18,008.00 with disbursements of \$66.30. (Letter to the Honorable Kevin W. Eide with Statement for Professional Services and Disbursements Rendered (dated November 13, 2017)). Those fees were incurred in investigating the UMG rescission issue, which is wholly separate from any issues involving the Tribute Concert. In order to investigate the Jobu Presents matter, the SSA would need to incur substantial additional fees in collecting and reviewing documents, interviewing witnesses, conducting research, and preparing a written report.

ARGUMENT

The only issue put before the Court in Baker's motion is whether the advance should have been returned by Bremer, from the Estate, to Jobu Presents. Neither the Court's April 5th Order, nor Baker's motion, seek to have the SSA investigate any other aspect of the Tribute Concert. Thus, it is only Bremer's actions with which the Court should be concerned in ruling on this motion.

This is not the first time that Baker objected to Bremer's decisions with respect to Jobu Presents. Following the Court's April 12, 2017 stay of Bremer's discharge, Baker and Alfred Jackson filed a lengthy objection to Bremer's proposed discharge from liability based on its alleged breach of a fiduciary duty with respect to the decision to return the Jobu Presents advance. In essence, Baker and Jackson allege that Bremer breached its fiduciary duty to the Estate and should be held liable for its actions. (Omarr Baker and Alfred Jackson's

Supplemental Objections to Bremer Trust, National Association's Discharge from Liability (dated April 24, 2017)). What Baker has not explained in his motion, and should be required to explain before the Court authorizes the substantial fees that will be incurred in this investigation, is the possible benefit to the Estate of incurring such fees.

SNJ take no issue with the SSA and do not resist expanding his authority out of any distrust of his abilities. Rather, SNJ's concern is economic. They do not want to see the Estate's resources unnecessarily expended to investigate claims that the Court has already suggested lack merit. (April 5th Order). Additionally, these matters may be resolved, in whole or in part, through the Jobu Presents litigation presently before the Court. (Court File No. 10-CV-17-368).

Moreover, even if the Court were to consider expanding the SSA's authority, Baker's proposed order would expand the authority beyond what is necessary to investigate Bremer's conduct. That proposed Order states:

The authority [sic] Peter J. Gleekel and the law firm Larson King, LLP as the Second Special Administrator of Decedent's estate is expanded, pursuant to Minn. Stat. § 524.3-617, to include the following...[c]onducting an independent examination and make an informed decision regarding whether any action should be pursued for the return of the advance paid by Jobu Presents to the Estate for the right to conduct the Tribute Concert, which advance was subsequently returned to Jobu Presents; *and determining whether the Estate has a reasonable basis for claim(s) against any person or entity in connection with the Jobu Presents agreement.*

([Proposed] Order Expanding Authority of the Second Special Administrator (filed October 31, 2017)) (emphasis added). If the Court grants the motion, it should provide clear direction on the limits of the SSA's authority to investigate the matter.¹ Such a limitation would lower the costs of an SSA investigation into the matter and would focus the SSA on the investigation originally contemplated by the Court in its April 5th Order.

¹ SNJ take no position on whether an investigation of L. Londell McMillan is necessary or proper under such an Order.

CONCLUSION

SNJ respectfully request that the Court deny the motion to expand the SSA's authority on the grounds that any potential benefit to such an investigation is likely to be outweighed by its cost. In the alternative, if the Court expands the SSA's authority, SNJ respectfully request that the Court establish clear limits on the scope of the investigation in order to control the costs to conduct it.

SKOLNICK & JOYCE, P.A.

Dated: November 17, 2017

By: /s/ Samuel M. Johnson

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