

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In the Matter of:

Court File No. 10-PR-16-46
Judge Kevin W. EideEstate of Prince Rogers Nelson,

Decedent.

**COMERICA BANK & TRUST, N.A.'S
REPLY IN SUPPORT OF PETITION TO
APPROVE INTERIM ACCOUNTING AND
OPPOSITION TO MOTION TO
INSTITUTE PROTOCOLS**

Redacted Version

INTRODUCTION

Although the filing purports to be an objection to the Personal Representative's Accounting, Objectors include almost no specific objections to the Accounting itself. Instead, their filing is devoted, almost in its entirety, to Objectors' demand that the Court enter a series of protocols, force the termination of the Estate's entertainment team, and require the Estate to retain and pay for lawyers and financial advisors for Objectors. The relief requested by Objectors has been rejected previously by this Court, is without basis in Minnesota law or the circumstances of this Estate and would unnecessarily constrain the Personal Representative's ability to efficiently administer and close the Estate. The Accounting should be allowed, in its entirety, and Objectors' motion should be denied.

ARGUMENT

I. THE PERSONAL REPRESENTATIVE HAS TAKEN ALL REASONABLE STEPS TO FACILITATE THE CLOSING OF THE ESTATE WHEN IT WILL BE POSSIBLE TO DO SO AND OBJECTORS ARE ATTEMPTING TO DISTRACT FROM THEIR OWN FAILURE TO REACH AGREEMENT WITH OTHER MEMBERS OF THE HEIR GROUP ON THRESHOLD ISSUES NECESSARY TO MOVE THE ESTATE CLOSING PROCESS FORWARD.

Objectors first assert that the Personal Representative is attempting to delay closing of the Estate and demand that the Court institute a series of transition protocols. As set forth below, the record—including those documents Objectors declined to provide the Court thus manufacturing a false narrative—establishes that the Personal Representative has taken all reasonable efforts to prepare for the eventual closing of the Estate. But as the Personal Representative has communicated to Objectors, time and again, their expectations regarding the timing and scope of the Estate closing process are unrealistic and ignore the Heir Groups' continuing failure to reach agreement amongst themselves on the threshold issues necessary for the parties to move forward on a cooperative transition process. Indeed, it was only earlier this month that Objectors changed their mind and informed the Personal Representative that they wish to work towards closing the Estate, rather than transitioning administration of the Estate to a substitute personal representative. The members of the Heir Group were also, as of the last update to the Personal Representative earlier this month, still at odds amongst themselves on how they want the assets to be distributed from the Estate. Meaningful additional transition planning cannot take place until the Heir Group reaches consensus on this, most basic of issues necessary to close the Estate.

Based on the unproductive and contentious nature of recent communications from Objectors, and the failure of the Heir Group to reach consensus amongst themselves on threshold transition issues, earlier this month the Personal Representative instituted a mediation process with Justice Gilbert to attempt to create a framework for the closing of the Estate. Justice Gilbert has been working separately with the Heir Group, in an attempt to build consensus among the

group, and has been communicating the consensus positions to the Personal Representative for responses. The Personal Representative will not repeat the Objectors', blatantly improper, disclosure of confidential mediation communications with Justice Gilbert, but the parties have made substantial progress and that process should be allowed to continue. In the event that any of the parties reach an impasse (whether internal to the Heir Group or between the Heir Group and the Personal Representative), the Personal Representative will report as much to the Court, and then the Court can decide whether any party needs to take additional steps to ensure the timely closing of the Estate.

A. The Personal Representative has attempted, since 2017, to assist the Heirs to align on transition planning.

Although the Personal Representative recognized that this would be a multi-year administration, it designed its interactions with the Heirs from the outset to assist them in understanding the day-to-day operation of the assets of the Estate so that they could make informed decisions regarding those operations when they received distribution of the Estate's assets. This included Heir meetings and regular communications on entertainment projects, as well as daily items such as branding, intellectual property enforcement, and licenses. (August 27, 2021 Declaration of Andrea Bruce ("Bruce Dec."), ¶ 2.) Additionally, during September 2017, the Personal Representative prepared and sent the Heirs a letter designed to start communications among themselves and between them and Personal Representative regarding their preferences at the closing and distribution of the Estate. (*Id.*, Ex. A.) Included in that letter were a series of questions, including "[w]hat structure do you envision for strategy and goal setting; decision making; governance and control; dispute resolution; etc." (*Id.*, Ex. A at 2.)

The fundamental problem with Objectors' motion is that now—four years later—the Heir Group still has not reached agreement amongst itself on the answers to those threshold questions,

despite the Personal Representative's repeated efforts to provide guidance on the issues. Those efforts included:

- Beginning in March 2020, the Personal Representative and the Heirs added transition discussions as a standing item on the agenda for all Heirs meetings. (Bruce Dec., ¶ 4.)
- Following discussions at the April 2020 Heirs meeting, on May 1, 2020, the Personal Representative sent the Heirs a detailed proposed entity organization structure. (Bruce Dec., Ex. B.) The Personal Representative followed-up by presenting on the proposed structure during a May 7, 2020 Teams meeting with the Heirs and the May 14, 2020 Zoom meeting with the Court and the Heirs. (*Id.*, ¶ 5.)
- After Sharon Nelson filed her “Prince Estate Business Plan” and draft “Summary of Principal Terms” with the Court on December 16, 2021, the Personal Representative responded to provide feedback and necessary next steps. (1/5/21 J. Cassioppi Letter.)
- On January 11, 2021, the Personal Representative filed a letter with the Court that included wind-up scenarios and potential timelines associated with the scenarios. In that letter, the Personal Representative noted that, after the tax liabilities are resolved, the next item the Heir Group needed to determine in order to transition or close the Estate was “how they want to administer and distribute the assets of the Estate.” The Personal Representative also noted that “[t]he only circumstance under which the Personal Representative anticipates a lengthy delay between resolution of the estate tax liabilities and closing/transition of the Estate is if the Interested Parties cannot come to a unified plan amongst themselves or they propose a plan that does not adequately protect the Personal Representative.” (1/11/21 J. Cassioppi Letter, 4-5.)
- On February 1, 2021, at the request of Justice Gilbert, the Personal Representative prepared and sent a letter that included 19-bullet points on tasks that the Heir Group and the Personal Representative needed to accomplish to close the Estate. (August 27, 2021 Declaration of Joseph J. Cassioppi (“Cassioppi Dec.”), Ex. C.)
- On May 13, 2021, at the request of Mr. McMillan, the Personal Representative updated its task list to account for items that had been addressed in the previous three months. (McMillan Dec., Ex. E.)
- On June 4, 2021, after Objectors advised that they wished to transition the Estate to a new personal representative (McMillan Dec., Ex. B), the Personal Representative prepared and circulated draft transition documents, including a proposed order. (McMillan Dec., Ex. G.)
- After a series of unproductive and combative email communications from Mr. McMillan, culminating in an August 10, 2021 communication in which Objectors stated that they had changed their minds and no longer wanted to transition the Estate and blamed the Personal Representative for somehow preventing them from retaining tax and financial experts, the Personal Representative communicated to the Heir Group that it would be

conducting transition discussions moving forward through Justice Gilbert. (McMillan Dec., Ex. E.)

As Mr. McMillan admitted in his August 10, 2021 email, despite the Personal Representative's efforts over the course of four years, the Heir Group still has not reached agreement amongst itself regarding how they would like the assets of the Estate distributed. (McMillan Dec., Ex. E.) When the Personal Representative pointed out that failure during the July 23, 2021 accounting hearing (*Id.*, Ex. A at 34:17-22), Mr. McMillan accused the undersigned of making a misrepresentation to the Court. (*Id.*, Ex. A at 36:9-25.) To buttress that accusation, Mr. McMillan filed a March 24, 2021 email from Jonas Herbsman to the Personal Representative that attached a "Term Sheet." (McMillan Dec., Ex. H.) Conspicuously absent from the submission, however, is the "Term Sheet" attachment to Mr. Herbsman email. Mr. McMillan did not include the Term Sheet because it evidences the fallacy of his accusations. The Term Sheet sent by Mr. Herbsman is the same document Sharon Nelson filed with the Court on December 16, 2020, with only minor edits. (Cassioppi Dec., Ex. A.) It is nothing more than an unsigned, draft, non-binding document to which Primary Wave, L. Londell McMillan, and Charles Spicer are not even parties, and it addresses a requested pre-closing transition of the assets of the Estate to the Heir Group—not the entity and distribution structure that the Personal Representative has been requesting since January 2021. (*Id.*) That Mr. McMillan would accuse the Personal Representative of making a misrepresentation to the Court and then double-down on that accusation by submitting an email to the Court, without its attachment (the contents of which directly contradict his position), demonstrates a disappointing lack of candor.

B. Despite challenges associated with Objectors' conduct, the parties are making good progress mediating with Justice Gilbert.

As set forth above, following a series of unproductive communications from Mr. McMillan, on August 10, 2021, the Personal Representative notified the Heir Group that it would be working through Justice Gilbert moving forward in an attempt to reach agreement with the

Heir Group on a process for closing the Estate. (McMillan Dec., Ex. E.) Since then, the Heir Group and the Personal Representative have each held multiple mediation sessions with Justice Gilbert and are, from the perspective of the Personal Representative, making good progress on developing a framework for a collaborative closing of the Estate.

The fact remains, however, that based on the latest information available to the Personal Representative, the Heir Group still is at odds amongst itself regarding how the assets of the Estate will be distributed at the closing of the Estate. That threshold decision is a necessary predicate that must be addressed before the parties can meaningfully plan for other tasks necessary for closing, including [REDACTED]

[REDACTED] communications with Estate service providers and entertainment partners (as those third-parties need to know which individuals or entities they will be contracting with), and the drafting of a petition to close the Estate and distribute assets. The Personal Representative has advanced transition planning as far as possible at this point, and further planning is dependent on the Heir Group either reaching consensus or seeking direction from the Court on how the Estate's assets will be distributed. Objectors' suggestion that the Court should impose transition protocols or deadlines on the Personal Representative, when it is the Heir Group that is holding-up further progress on closing the Estate, is specious and should be rejected by the Court in its entirety.

On a final note, the Personal Representative is deeply troubled by Objectors' blatant violation of the confidentiality rules that apply to mediated matters. The Minnesota Legislature has mandated that a person cannot be examined regarding communications or documents "made or used in the course of or because of mediation pursuant to an agreement to mediate." Minn. Stat. § 595.02, subd. 1(m); *see also* Minn. Stat. § 595.02, subd. 1a (providing that mediators are

immune from being compelled to testify except as to statements that could constitute a crime, give rise to disqualification, or constitute professional misconduct); Minn. R. Evid. 408 (limiting the circumstances under which a party may seek to admit evidence of a settlement discussions). Similarly, Minnesota General Rule of Practice 114.08 provides that, with limited exceptions not relevant here, “no statements made nor documents produced in non-binding ADR processes which are not otherwise discoverable shall be subject to discovery or other disclosure.”

Despite the parties having engaged in a series of mediations with Justice Gilbert, and the communications between the Personal Representative and the Heir Group specifically referencing Rule 408 and the mediation privilege, Mr. McMillan included the communications as exhibits to his filing. (McMillan Dec., Ex. B.) Mr. McMillan also included excerpts from his communications with Justice Gilbert following the “5/27 Mediation Session,” which are indisputably privileged under Minnesota law. And this was not an accident. When Mr. McMillan sent drafts of Objectors’ filings for review and redaction on August 13, the undersigned alerted Mr. McMillan to this issue, both by phone and in writing, but Objectors persisted with their blatant violation of the confidentiality rules. (Cassioppi Dec., Ex. B.)

To ensure the greatest chance for success at mediation, the parties and Justice Gilbert need to be confident that Objectors will not disclose the contents of their privileged negotiations in violation of Minnesota law. The parties need to be reminded of their obligation to participate in mediation in good faith in compliance with all applicable laws, rules, and privilege.

II. OBJECTORS’ ALLEGATIONS REGARDING THE PERSONAL REPRESENTATIVE’S HANDLING OF THE ESTATE’S TAX DISPUTES ARE UNINFORMED, BASELESS, AND [REDACTED]

Objectors broadly challenge the Personal Representative’s handling of the federal and state estate tax returns for the Estate. According to Objectors, the Personal Representative has refused to share information, is intentionally delaying resolution of the disputes, and [REDACTED]

[REDACTED]

[REDACTED]. Once again, the assertions are wrong on the facts, uninformed, and entirely baseless. Although the Personal Representative will provide the Court the entire history of its handling of the Estate's dispute with the taxing authorities below, the groundless nature of Objectors' assertion is best proven by [REDACTED]

A. History and Status of the Personal Representative's Handling of the Estate Tax Process.

1. The Personal Representative timely filed the estate tax returns, supported by expert appraisals.

The Personal Representative began serving in that role on February 1, 2017, less than 6 months before the extended deadline for filing the Decedent's estate tax return in July 2017. Prior to the Personal Representative's tenure, Bremer Trust had begun the process of discussions with experts to prepare valuations for the Estate, but most of the valuations had not been completed when the Personal Representative was appointed. (August 27, 2021 Declaration of Mark W. Greiner ("Greiner Dec."), ¶ 2.)

For the Decedent's intellectual property assets, the Personal Representative worked with [REDACTED] on music and [REDACTED] [REDACTED] for name, image and likeness, as well as retaining [REDACTED] as a consulting expert. The Personal Representative interviewed a number of other music valuation experts. Ultimately it assembled an extremely qualified team of appraisers to prepare valuations of the Decedent's assets. (Greiner Dec., ¶ 3.)

The most time-intensive appraisal related to tangible personal property. Bremer had engaged [REDACTED] to provide an initial estimated valuation for the first estimated tax payment due on January 21, 2016. The Personal Representative extended this engagement so that [REDACTED] [REDACTED] could continue its work and prepare a qualified appraisal for submission with the estate tax return. [REDACTED] worked with a network of specialists to ensure that it had the appropriate coverage across all categories of personal property that the Decedent owned. The Personal Representative also retained a variety of real estate appraisers, using different appraisers whose specialties were suited to varying types of property in varying locales. (Greiner Dec., ¶ 4.)

The estate tax return was submitted in July 2017, the day before the extended deadline for filing a return. This is the typical timeline for filing an estate tax return for a complex estate. A more expedited schedule would not have been possible in the six months between the Personal Representative's appointment and the extended due date. Because the estate tax return was filed in July 2017, the IRS had until July 2020 to issue a notice of deficiency to the Estate. (Greiner Dec., ¶ 5.)

2. [REDACTED]

By letter dated June 14, 2018, the IRS notified the Personal Representative that the estate tax return had been selected for audit, which was expected based on the size and nature of the Estate. [REDACTED]

[REDACTED]

[REDACTED] (Greiner Dec., ¶ 6.)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The IRS Appeals Office typically requires at least 9 months left on the statute of limitations in order to accept a case for negotiation prior to the issuance of a statutory notice of deficiency. The IRS Appeals Office has more discretion to take litigation risk into account and thus has more negotiation ability than the IRS agent conducting the audit.

(Greiner Dec., ¶ 7.)

Throughout the audit, the Estate promptly provided the IRS with hundreds of documents in response to a number of additional IDRs. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Greiner Dec.,

¶ 8.)

[REDACTED]

3. The Personal Representative engaged in settlement discussions with IRS counsel as soon as possible after the commencement of the Tax Court proceeding.

The IRS mailed its notice of deficiency to the Personal Representative on June 1, 2020. In order to preserve its right to contest the statutory notice of deficiency, the Estate needed to file a tax court petition within 90 days of the issuance of the notice of deficiency. During this time period, there is no one with authority at the IRS with whom to negotiate values, because management of the case and all case files must be transferred from the IRS agent to IRS litigation counsel. (Greiner Dec., ¶ 10.) The Estate filed its Tax Court petition on August 18, 2020. Unlike other courts, the Tax Court required paper filing at that time and its docketing was extremely backed up due to it being closed for many months due to COVID-19. As a result, the petition was not served on IRS litigation counsel by the Tax Court until September 30, 2020. The Estate had absolutely no way to expedite the Tax Court's processing of the Estate's petition. (*Id.*)

As soon as the Personal Representative learned, during October 2020, the identity of counsel at the IRS who had been assigned to the case, counsel for the Personal Representative contacted the assigned IRS counsel to inquire whether they would entertain settlement discussions as soon as possible and before any transfer of the case to the IRS Appeals Office, which would have been the next typical procedural step by the IRS and would have delayed settlement discussions for one year or more. IRS counsel responded that they would need time

[REDACTED]

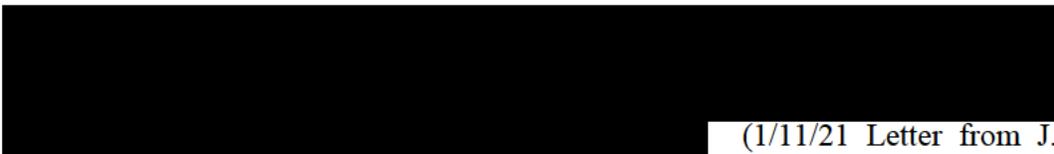
5. [REDACTED]

B. The Personal Representative has exercised its discretion in sharing all material information regarding the estate tax process with the Heir Group, while safeguarding certain communications to protect the Estate's negotiating position.

The Objectors' assertion is incredible that they have been kept-in-the-dark regarding the Estate's audit and tax disputes. The Personal Representative has, throughout the course of its administration, kept the Heir Group informed in painstaking detail of the status of the estate tax return, audit, and tax disputes. The Personal Representative also has obtained consent from the members of the Heir Group before approaching the IRS to discuss any potential resolution. A representative sample of the Personal Representative's efforts to keep the Heir Group informed includes:

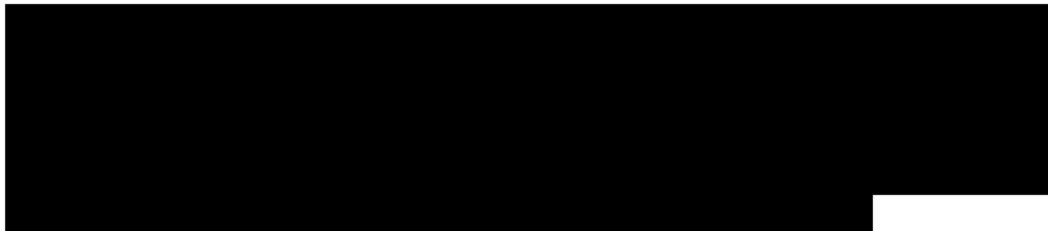
- The Personal Representative discussed the status of the estate tax return with the Heirs at the very first Heirs meeting during February 2017. Thereafter, the topic was discussed at a minimum during Heirs meetings in March, June, August, and October 2017, June, September, and December 2018, February, June, and September 2019, and January and February 2020. Thereafter, estate tax status

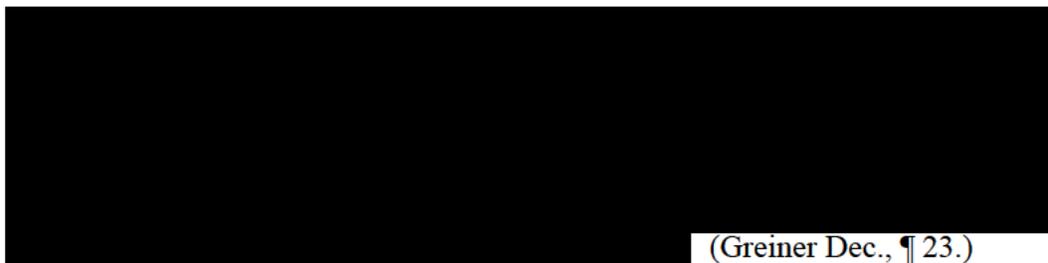
and transition planning were added as a monthly standing agenda topic at Heirs' meetings. (Bruce Dec., ¶ 6.)

- The Personal Representative devoted 45 minutes at the August 1, 2017 Heirs Meeting, including by flying-in Comerica's internal estate tax specialist, to present on the specifics of the estate tax returns. (Bruce Dec., Ex. C.)
- The Personal Representative provided the Heir Group access to the federal estate tax return on HiQ after it was submitted to the IRS. (Bruce Dec., ¶ 8.)
- The Personal Representative provided a copy of the Form 8971, Information Regarding Beneficiaries Acquiring Property from a Decedent, to each of the heirs during August 2017. Form 8971 outlined all items included on the estate tax return and the estate tax value of each item. (Greiner Dec., ¶ 18.)
- Counsel for the Personal Representative provided a comprehensive update to the Court and the Heirs at the September 29, 2017 meeting held at the Carver County Government Center, which included comparisons with similar estates and potential timelines. (Greiner Dec., ¶ 19.)
- Counsel for the Personal Representative provided an update on the estate tax audit at the February 22, 2019 meeting with the Court and the Heirs at the Carver County Government Center, which described the status of the audit, the efforts the Estate was taking to expedite the audit process, and delays associated with the government shutdown. (Greiner Dec., ¶ 19.)
- Counsel for the Personal Representative provided a comprehensive update at the May 14, 2020 virtual meeting with the Court and the Heirs, which included the status of the audit, the information the Estate had received to date on the IRS's valuation figures, anticipated timing related to the Tax Court dispute, and the Personal Representative's estimate of when the IRS would be willing to begin discussing settlement. (Greiner Dec., ¶ 19.)
- The Personal Representative provided the Heirs copies of the notice of deficiency, Tax Court petition, and IRS's answer. (Greiner Dec., ¶ 19.)
-  (1/11/21 Letter from J. Cassioppi.)
- On February 8, 2021, the Personal Representative informed the Heirs that the Estate intended to make an additional  payment towards the principal balance of the federal estate tax debt. (Bruce Dec., ¶ 9.)
- At a March 25, 2021 round-table meeting convened by Justice Gilbert, counsel for the Personal Representative presented on the status of settlement efforts with the IRS related to the Estate's real estate assets. 



- The Personal Representative informed the Heir Group in advance of a settlement meeting with the IRS to discuss real estate valuations that took place on April 2, 2021. (Greiner Dec., ¶ 21.)
- The Personal Representative informed the Heir Group of the offer it received from the IRS on the real estate valuations and requested their positions on resolution on that aspect of the dispute on April 21, 2021. The parties then discussed and agreed to accept the offer. (Greiner Dec., ¶ 21.)

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-  (Greiner Dec., ¶ 23.)

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The Objectors are correct that the Personal Representative has declined to share its specific communications with the IRS related to settlement, instead providing summaries to the Heir Group and following-up with discussions or additional analysis. There is good reason for

that. Certain members of the Heir Group have historically made and continue to make public statements that are negatively impacting the Estate's leverage to obtain a settlement. Most egregiously, as the Court is aware, Sharon, John, and Norrine Nelson actually called litigation counsel for the IRS to express their desire to settle the case on an expedited basis. (11/24/20 J. Cassioppi Letter.) More recently, Sharon Nelson told the Star Tribune that "[w]hatever happens, we're going to see to it that we don't go to trial." (Cassioppi Dec., Ex. D.) As discussed in greater detail below, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

As set forth above, the Personal Representative keeps the Heir Group extremely well informed regarding the status of its attempts to resolve the tax disputes, including by providing detailed analyses of the financial implications of various scenarios. Because of the poor decision-making exhibited by Objectors, the Personal Representative should be provided the discretion to maintain the confidential nature of its communications with the taxing authorities to protect the confidentiality of that information and the negotiating position of the Estate.

C. Objectors' Purported Tax Expert is Uninformed and [REDACTED]

[REDACTED]

Finally, Objectors submit a declaration from a purported tax expert, which they assert supports their position that the Personal Representative has mishandled the Estate's tax matters. Review of that declaration establishes that the limited opinions offered therein are uninformed and are not helpful to the Court.

As an initial matter, the purported expert from whom Objectors obtained a declaration appears to focus his practice primarily on the tax implications of mergers and acquisitions.

(8/13/21 Declaration of Carl Wells Hall (“Hall Dec.”), at p. 4.) The fact that Objectors were seemingly unable to find a single attorney, anywhere in the country with a practice focused on trust and estate planning or IRS estate tax disputes, willing to advance their false narrative tells the Court all it needs to know.

Mr. Hall’s declaration also reflects a troubling failure to conduct basic due diligence on the subject matters on which he purports to opine. Mr. Hall expresses surprise that the Estate was unable to resolve its dispute with the IRS and MNDOR during the three-year audit period, but he did nothing to educate himself regarding the IRS’s timeline and associated delays, discussed above. Indeed, according to his declaration, the only person Mr. Hall has spoken with is Mr. McMillan, who was barred from receiving information regarding the Estate from 2018 through early 2021 and, therefore, was not a party to the numerous discussions referenced above regarding the timeline of the IRS dispute. (Hall Dec., ¶¶ 4, 6.)¹ Mr. Hall’s affidavit also reveals a lack of knowledge regarding the State of Minnesota’s longer statute of limitations.²

¹ Mr. Hall also asserts that the Personal Representative should have shared, in advance of filing the estate tax returns, copies of its valuation reports. The Personal Representative communicated to the Heirs that it could not share valuation reports due to the engagement agreements that it had entered into with the valuation experts, which also made the Estate liable for the reliance of a third party (including an Heir) on the valuation reports. (Greiner Dec., ¶ 25.) Sharing drafts of the valuation reports with the Heirs would have also been problematic given that the drafts and communications between counsel and the valuation experts were protected by attorney-client privilege. As a professional in the field, Mr. Hall should be familiar with these concepts. Moreover, Mr. Hall has failed to show that sharing these documents with the heirs would have resulted in changed valuations – the Personal Representative would not have been able to substitute the Heirs’ judgment as to the valuation of assets for the judgment of qualified experts.

² Minnesota Statutes § 289A.38 provides for a 3.5 year statute of limitations after a return is filed for assessment. Where, as here, there are changes to the federal taxable estate by the IRS, the Minnesota Department of Revenue is entitled to an additional one year to assess additional tax after the filing of an amended estate tax return.

[REDACTED]

As discussed below, the Objectors are free to engage whomever they wish to advise them on whatever payment terms they deem fit. But the Court would be ill-advised to force the Estate to retain and pay for someone [REDACTED] [REDACTED], particularly one who opines without having conducted basic due diligence to determine whether his statements are warranted by the facts of this case. The services of Mr. Hall and his firm will not be helpful to or benefit the Estate in any manner, particularly at this late date.⁴

³ During the hearing on the Personal Representative's Accounting, the Court asked Mr. McMillan to send copies of Objectors' filing to the undersigned for review prior to filing. The Objectors followed the Court's instructions, with one exception. The Objectors did not provide the undersigned a copy of Mr. Hall's declaration to review in advance of their filing. (Cassioppi Dec., Ex. E.) If they had, the Personal Representative would have [REDACTED]

⁴ Never ones to take "no" for an answer, Objectors again ask the Court to force the Personal Representative to allow them to participate directly in settlement discussions with the taxing authorities. Nothing has changed since the Court last rejected that request. The Objectors

III. THE COURT SHOULD REJECT OBJECTORS' LATEST ATTEMPT TO FORCE THE PERSONAL REPRESENTATIVE TO TERMINATE THE AGENTS IT NEEDS TO EFFECTIVELY ADMINISTER THE ESTATE.

As they have done in connection with multiple previous filings, Objectors make the bare assertion—unsupported by any analysis of the services he provides to the Estate or the monetary benefit derived therefrom—that Troy Carter's compensation is excessive and that the Court should force the termination of his services. This time, however, Objectors also demand that the Court force the Personal Representative to terminate the services of Trevor Guy, again based on the bare assertion that his services are not "critical." It is time for the Court to close the door, once and for all, on this baseless line of arguments. Assuming that the Heir Group is able to reach agreement amongst itself on a plan for distribution and management of the Estate's assets, the Personal Representative anticipates that it will be able to close the Estate within a matter of months. As long as it continues to serve in that role and bears the responsibility of managing the Estate's assets and generating the revenue necessary to pay all creditors and expenses, the Personal Representative should be afforded the discretion to keep the administrative team in place necessary to meet that responsibility.

First, with respect to Mr. Guy, Objectors provide no support or context for why they believe his compensation is excessive or his services should be terminated. Objectors do however, represent to the Court that Objectors and Primary Wave are in agreement that Mr. Guy's services are no longer necessary. That representation is false. Tyka Nelson, supported by Primary Wave, has explained why she believes Mr. Guy's ongoing services to the Estate are critical:

already have significantly weakened the Estate's leverage to obtain a settlement and forcing additional parties into the late stages of the Estate's negotiations with the taxing authorities will lead only to delay and uncertainty.

For the last 4 years of his life, my brother Prince entrusted Trevor Guy with significant responsibilities related to his business and they worked together closely on good terms until my brother's passing. That speaks volumes to me. I consider Trevor to be ESSENTIAL to the Prince music business both in terms of day to day work and in terms of authentically continuing my brother's legacy. It is my desire that Trevor continue to be retained by the Prince Estate now and into the future.

(Cassioppi Dec., Ex. F.) In light of Tyka Nelson's and Primary Wave's statements on this issue, the Court should review with particular scrutiny representations by Objectors that they are speaking for other members of the Heir Group on the many allegations made in their filing. To the extent that Tyka Nelson and Primary Wave actually supported the proposed protocols and other demands in Objectors' submissions, they undoubtedly would have notified the Court of that support.

From the perspective of the Personal Representative, there is no agent more critical to the day-to-day management of the Estate's entertainment assets than Mr. Guy. The Decedent hand-selected Mr. Guy to serve as president of NPG Records and as his artist representative with industry partners, with roles including commercial music distribution, marketing, and promotion, merchandising, creative design and production, media relations and brand development, and live production and touring. (August 27, 2021 Declaration of Trevor Guy, ¶ 8.) Following the Decedent's passing, Mr. Guy was retained by Bremer Trust and P Park Management LLC to continue assisting with the management of the day-to-day operation of the Estate's entertainment assets, as well as assisting with the development of the Paisley Park Museum. (*Id.*, ¶¶ 10-11.)

Those roles have expanded under the Personal Representative. Mr. Guy assists the Personal Representative to lead day-to-day activities in three of the Estate's primary commercial spheres: 1) music sales and streaming via [REDACTED]; 2) merchandising via [REDACTED] and varied licensing partners; and 3) direct-to-consumer activities via [REDACTED] and the Official Prince Store. Taken together, this work contributes to millions of dollars of annualized gross revenues. (Guy Dec., ¶ 12.) Beyond these responsibilities, Mr. Guy assists

the Personal Representative and the broader Estate with brand development collaborations (e.g., [REDACTED]); original content production (e.g., the Official Prince Podcast); digital strategy and website development (@Prince, Prince.com and related micro-sites); publicity and media relations [REDACTED]; IP rights enforcement (Fredrikson & Byron); and experiential endeavors (Paisley Park and related museum exhibitions). (*Id.*)

There is not a circumstance under which the Personal Representative could effectively manage the Estate's entertainment assets without Mr. Guy's invaluable services. (Bruce Dec., ¶ 10.) Objectors contend that the Personal Representative should simply rely on the Estate's entertainment partners who have "highly paid experts who are working to monetize the Estate assets." (Obj. Resp. at 16-17.) They further alleged that the Estate's entertainment partners "often come back to the Estate simply to seek approvals of matters." (*Id.*) These allegations demonstrate a fundamental lack of understanding of how the Personal Representative administers the multiple entertainment deals in place. The Estate entertainment administrative team, including Mr. Guy, engages in extensive and careful discussion, evaluation, communication and activity related to the day-to-day management of the Estate's entertainment deals. (Bruce Dec., ¶ 10.) The Estate does not simply rely on its partners in a vacuum to manage all aspects of entertainment deals. Such an approach would be contrary to the Personal Representative's fiduciary duty to prudently administer the assets of the Estate.

The Personal Representative intends to continue to work with Mr. Guy until it distributes the assets of the Estate to the Heir Group. Thereafter, the Heir Group will need to decide whether, and on what terms to continue to utilize Mr. Guy's services. Based on the Personal Representative's experience working with Mr. Guy for more than four years, and as recognized by Tyka Nelson, the Heir Group would be well served by continuing to retain Mr. Guy. Regardless, the Court should outright reject Objectors' baseless and unsupported attempt to

prevent the Personal Representative from retaining an agent whose efforts are critical to the day-to-day management of the Estate.⁵

With respect to Mr. Carter, Objectors assert both that his pay is “excessive,” and that his services are no longer necessary. Objectors are wrong on both counts. With respect to Mr. Carter’s compensation, the Personal Representative benchmarks the combined total of the monthly fee and commissions the Estate pays to Mr. Carter to [REDACTED]

[REDACTED] (Bruce Dec., Ex. D.) There is no doubt that is a substantial sum of money, but the payments are proportionate and reasonable compared to the services rendered, the revenue earned and the substantially higher payments made to the former entertainment advisors for the Estate for less work over a shorter time period.⁶

⁵ Based on his more than eight years of working for the Decedent and the Estate, Mr. Guy was dismayed by Objectors’ demand that he be terminated at the end of the month. Mr. Guy requested the opportunity to further address the allegations raised about him in a declaration, which is submitted herewith.

⁶ Objectors attempt [REDACTED] paid to Mr. McMillan and Mr. Koppelman, asserting that those payments were reasonable because they did not earn monthly fees. In doing so, they ignore the fact that the purpose of the monthly fees is to compensate Mr. Carter for the fact that he has the responsibility to administer the deals negotiated by his successors, despite not having received commissions on those arrangements. The fact remains that Mr. McMillan and Mr. Koppelman were paid [REDACTED] related to deals that they never had to administer—including the since rescinded UMG transaction signed on the last day of Bremer Trust’s service as special administrator—and it is hypocritical for Mr. McMillan and his clients to now assert that Mr. Carter should not be paid for services the Estate needs to monetize assets to pay-off the tax liabilities and close the Estate.

With respect to Mr. Carter's services, the Personal Representative acknowledges that Mr. Carter is in a different position from other agents of the Estate, including Mr. Guy. [REDACTED]

[REDACTED] The Personal Representative is hopeful that the Heir Group will reach agreement amongst themselves regarding s [REDACTED]

[REDACTED]. While the Personal Representative is able and ready to source those funds, the Heir Group has expressed that it wishes to do so. (Bruce Dec., ¶ 13.) Until the Heir Group actually provides those funds, however, the Personal Representative needs to retain the ability to negotiate additional entertainment deals to generate those cash needs, and for that it needs the services of Mr. Carter.

Ultimately, the Personal Representative is entitled to retain and employ agents to maximize the value of the Estate and pay its creditors. Minn. Stat. § 524.3-711; 524.3-715. Objectors have not provided any basis upon which the Court could disallow any portion of the payments made to Mr. Guy or Mr. Carter from February 2020 through January 2021 as reflected in the Accounting. To the extent that they believe that compensation paid between now and the closing of the Estate is excessive or unwarranted, they will have the opportunity to raise such claims in connection with the Personal Representative's final accounting. Objectors should not be allowed to interfere with how the Personal Representative, in its discretion, is administering the complex entertainment assets of the Estate. Mr. Guy and Mr. Carter occupy indispensable roles vital to the protection and monetization of the Estate's assets. To terminate two of the Estate's most valuable advisors without any financial justification or transition plan is not only

unprecedented, but also deeply irresponsible and would unnecessarily hamper the Personal Representative's ability to finalize its administration of the Estate.

IV. THERE IS NO SUPPORT UNDER MINNESOTA LAW FOR OBJECTORS' ASSERTION THAT THE PERSONAL REPRESENTATIVE SHOULD BE FORECLOSED FROM MONETIZING THE ASSETS OF THE ESTATE.

This is at least the second time that Objectors have petitioned the Court seeking an order prohibiting the Personal Representative from effectively managing the entertainment assets of the Estate. The first time, Sharon, John, and Norrine Nelson brought a petition seeking to limit the Personal Representative's authority "to administering and handling only assets that existed prior to Decedent's death, with no right to control, administer or handle any new assets or derivative works from preexisting assets." (4/23/19 Order at 2.) The Court rejected the petition, determining that the Heirs had provided no specificity supporting such a limitation, and the relief requested would be contrary to the "broad authority" the Personal Representative needs "to administer the Estate that has been granted to them and is allowed by statute." (*Id.*)

This time, in his arguments at the petition hearing on July 23, 2021, Mr. McMillan asserted that unspecified provisions of the Probate Code prohibited the Personal Representative from creating new assets or derivative works. (McMillan Dec., Ex. A at 20-21.) In their filing, however, Objectors cite only one section—Minn. Stat. § 524.3-715(24)—which they represent prohibits the personal representative from conducting new business activities. The Court will notice, however, that Objectors only paraphrase, rather than quote, the statute. That is intentional. That actual language of the statute establishes that it has nothing to do with creating new business assets and the Probate Code, as a whole, provides the Personal Representative broad power to administer the assets of the Estate.

Minnesota Statutes § 524.3-715(24) provides that a personal representative has the power to:

Continue any **unincorporated business or venture** in which the decedent was engaged at the time of death (i) in the same business form for a period of not more than four months from the date of appointment of a general personal representative if continuation is a reasonable means of preserving the value of the business including good will, (ii) in the same business form for any additional period of time that may be approved by order of the court in a formal proceeding to which the persons interested in the estate are parties; or (iii) throughout the period of administration if the business is incorporated by the personal representative and if none of the probable distributees of the business who are competent adults object to its incorporation and retention in the estate.

The subsection applies solely to **unincorporated businesses** or **ventures** (i.e., sole proprietorships) and has no application to the operation of incorporated business entities like those owned by the Decedent during his lifetime (including the Paisley Park and NPG entities that manage the Estate’s intellectual property assets). With respect to incorporated entities, the Probate Code provides personal representatives broad powers to manage businesses, including the ability to “retain assets,” “acquire or dispose of any asset,” “vote stocks or other securities,” “consent . . . to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise,” and most importantly, exercise “the same power over the title to property of the estate than an absolute owner would have” Minn. Stat. §§ 524.3-711, 715(1), (6), (12), (19). As the comments to the Uniform Probate Code explain, “[t]he power over title of an absolute owner is conceived to embrace all possible transaction which might result in a conveyance or encumbrance of assets, or in a change of rights of possession.” (Cassioppi Dec., Ex. G.)

A contrary rule would make it impossible for personal representatives to manage complicated business assets in estates, like this, where there is uncertainty regarding the identity of heirs and significant creditor claims that require adjudication and payment, which is why Objectors were not able to find any authority—statutory, caselaw, or otherwise—that supports their novel argument. Rather than limiting the Personal Representative’s activities, the Probate Code provides broad and comprehensive authority—subject to the supervision and direction of

the Court—to take the steps necessary to marshal and administer the assets of the Estate in order to pay the Estate’s creditors and distribute the remaining assets to the beneficiaries.

In addition to asserting, unsuccessfully, that the Probate Code limits the Personal Representative’s authority, Objectors argue that the Court should exercise its discretion to impose new protocols, limited solely to “newly-created assets.” Objectors’ proposed protocols are both unworkable and unnecessary. The Court has already set protocols for large scale, ongoing entertainment transactions that are likely to continue through the closing of the Estate. Requiring the Personal Representative to seek Heir Group or Court approval every time Objectors disagreed with the Personal Representative’s decision to include an unreleased recording on a deluxe album or license the Estate’s intellectual property to a new type of business venture would grind operation of the Estate to a halt.

The Personal Representative has exercised considerable discretion over the past 18 months, foregoing multiple opportunities to monetize the assets of the Estate based on the wishes of the Heir Group that such opportunities be saved for them to explore after the closing of the Estate. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Bruce Dec., ¶ 13.) As set forth above, the Heir Group has stated that it intends to obtain the financing necessary to [REDACTED]

[REDACTED]

[REDACTED] Until the Heir Group delivers that financing, the Personal Representative needs the discretion to continue to explore monetization opportunities, subject to its ongoing commitment to keep the Heir Group informed regarding potential entertainment opportunities and the protocols that were renewed by the Court earlier this year.

V. THE HEIR GROUP IS FREE TO RETAIN WHICHEVER ADVISORS, ON WHATEVER TERMS, THEY WISH, BUT THE COURT SHOULD DECLINE OBJECTORS' DEMAND THAT THE ESTATE PAY FOR THE SERVICES OF THEIR ADVISORS.

Finally, Objectors request that the Court force the Personal Representative to retain, and the Estate to pay for, tax and financial professionals to advise Objectors. To be clear, the Objectors are free to retain whichever advisors they wish, on any terms on which they and the advisors mutually agree. Assuming those individuals execute the Estate's non-disclosure agreement, the Personal Representative will share information with the advisors as requested by Objectors. But as the Court ruled the last time the Heirs sought an order forcing the Estate to pay for financial advisors to assist the Heirs, there is no basis in the Probate Code or Minnesota law for an estate to expend administrative funds on advisors for beneficiaries of an estate.

Specifically, during 2018, three of the Heirs requested Estate-funded financial advisors to assist them with understanding Estate finances and prepare them for managing the Estate. At that time, both the Personal Representative and Sharon, John, and Norrine Nelson opposed the request because, *inter alia*, the request did not benefit the Estate, would deplete Estate assets, and because the Heirs should not attempt to use Estate assets to replicate the Personal Representative's work. The Court agreed and denied the request. (7/11/18 Order.)

The Objectors now reverse their position and request that the Court order the Estate to retain and pay for the same services they opposed in 2018, namely "reviewing the Estate's accountings and other financial disclosures," and helping them understand "the full financial implications of the asset they will inherit." (Obj. Resp. at 20.) The same grounds that caused the Personal Representative and three of the Objectors to oppose the 2018 request are equally applicable here. The request simply does not benefit the Estate. It is true that the finances of the Estate are complicated, but the Personal Representative has provided multiple tools to Objectors to assist them to understand those finances, including: (1) cash flow analyses; (2) estate and

entity financial statements; (3) annual interim accountings; and (4) monthly financial statements. (Bruce Dec., ¶ 14.) If Objectors wish to retain advisors, in addition to Mr. McMillan and Mr. Spicer, to help them to review financials, that is their prerogative. But forcing the Estate to pay for such advisors is duplicative and provides no benefit to the Estate.

The same is true with respect to the Objectors' request that the Estate pay for their tax attorneys. Setting aside the serious poor judgment exercised by Objectors and Mr. Hall in connection with [REDACTED], the Estate has already retained experience and professional counsel to represent it in its disputes with the taxing authorities. That counsel has already delivered substantial benefits to the Estate. If the Objectors would like to receive independent legal advice, that is their right, but the services of their counsel would be subject to review, after the fact, under Minnesota Statutes § 524.3-720, and counsel would need to show that their legal work provided a benefit to the Estate to qualify for compensation.

Simply stated, the Estate does not need additional professional advisors. If Objectors believe they need advisors, they can retain those advisors and presumably will be doing so in connection with their role in operating the assets of the Estate after it is closed. The expenses associated with those advisors are not a legitimate expense of estate administration and should be borne solely by Objectors.

CONCLUSION

Objectors have not articulated or attempted to substantiate any basis on which the Court should disallow the Personal Representative's Accounting. Instead, Objectors are repeating their improper previous attempts to usurp control of the Estate. Objectors devote their response to asserting that the Court should force the Estate to adopt premature transition protocols, criticizing the Personal Representative's management of its estate tax disputes, attempting to terminate two agents crucial for the operation and management of the Estate's entertainment

assets, seeking (again) to limit the Personal Representative's authority to operate the entertainment assets of the Estate, and attempting to force the Estate to pay for additional advisors for Objectors. None of the assertions made, or the relief requested, by Objectors is warranted by Minnesota law or the circumstances of this Estate. To the contrary, Objectors' attempt to add layers of additional protocols and advisors would serve only to delay resolution of the Estate's tax disputes and the ultimate closing of the Estate.

The Court should allow the Personal Representative's Accounting in its entirety and reject Objectors' misguided motion.

Dated: August 27, 2021

/s/ Joseph J. Cassioppi

Mark W. Greiner (#0226270)

Joseph J. Cassioppi (#0388238)

FREDRIKSON & BYRON, P.A.

200 South Sixth Street

Suite 4000

Minneapolis MN 55402-1425

612-492-7000

612-492-7077 fax

mgreiner@fredlaw.com

jcassioppi@fredlaw.com

Attorneys for Comerica Bank & Trust, N.A.