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December 7, 2021

Via Odyssey E-FileThe Honorable Kevin W. Eide  
Presiding Judge  
Carver County Justice Center  
604 E. 4<sup>th</sup> Street  
Chaska, Minnesota 55318RE: *In Re Estate of Prince Rogers Nelson*  
Case Number 10-PR-16-46

Dear Judge Eide:

This letter responds to the questions raised by Primary Wave IP Fund I, LP) ("Primary Wave") through its counsel, Attorney Eric J. Magnuson, in response to a Notice of Application for Determination and Establishment of Attorney's Lien and Entry of Judgment filed on August 4, 2021. As the Court is aware, the undersigned attorney represented Alfred Jackson, Jr., one of six (6) heirs-at-law of Prince Rogers Nelson. Mr. Jackson has since died, and his estate entered into a settlement agreement whereby Primary Wave purchased Mr. Jackson's interests in the Prince Estate. In connection with the purchase of Mr. Jackson's interests, this Court entered an Order recognizing Primary Wave as an Interested Person in the Prince Estate on or about April 4, 2021. Upon reasoned information and belief, no distribution has been ordered or requested in the Prince Estate, and the probate proceeding remains open.

Mr. Magnuson's letter challenges whether an attorney lien can be determined and established against Mr. Jackson's interests in the Prince Estate since any proceeds (money or otherwise) that are ultimately distributed and attributed to Mr. Jackson's inheritance will flow to Primary Wave. In this regard, Primary Wave asserts that "there currently is no property interest in the Prince Estate to which the lien may attach." In other words, Mr. Magnuson suggests that because Mr. Jackson's estate will no longer receive any proceeds from the Prince Estate, there can be no attorney's lien against any distribution attributable to Mr. Jackson's interest. However, this position contradicts well-established Minnesota statutory and case authority regarding attorney liens.

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An attorney has a lien for compensation whether the agreement for compensation is expressed or implied (1) upon the cause of action from the time of the service of the summons in the action, or the commencement of the proceeding, and (2) upon the interest of the attorney's client in any money or property involved in or affected by any action or proceeding in which the attorney may have been employed, from the commencement of the action or proceeding, and, as against third parties, from the time of filing the notice of the lien claim, as provided in this section. Minn. Stat. § 481.13, subd. 1(a) (2012). The attorney lien on a client's cause of action "prevent[s] a client from benefiting from an attorney's services without paying for them and provides security for recovery of fees." *Sanvik v. Sanvik*, 850 N.W.2d 732, 737 (Minn. App. 2014); *see also, Barnes v. Verry*, 154 Minn. 252, 255, 191 N.W. 589, 590 (1923) ("[A] party to a cause may not run away with the fruits of his attorney's industry and ability without satisfying the attorney's just demands.").

The lien granted under subdivision 1(a), is an inchoate lien that attaches at the commencement of the legal representation to the cause of action or the client's interest in any money or property involved in or affected by any action or proceeding in which the attorney may have been employed. *Dorsey & Whitney LLP, v. Grossman*, 749 N.W.2d 409, 420 (Minn. App. 2008). The lien "may be established, and the amount of the lien may be determined, summarily by the court under this paragraph on the application of the lien claimant or of any person or party interested in the property subject to the lien." Minn. Stat. § 481.13, subd. 1(c) (2012). "The resulting judgment is in the nature of a declaratory judgment that establishes the lien, as defined by the district court with regard to the lienholder, the subject, and the amount." *Dorsey*, 749 N.W.2d at 422. The lien exists until it is satisfied or released. *Desaman v. Butler Bros.*, 114 Minn. 362, 364, 131 N.W. 463, 464 (1911). And importantly, the lien, once formed, is not extinguished until satisfied and an entry of judgment on an underlying cause of action has no effect on the lien's validity. *Williams v. Dow Chem. Co.*, 415 N.W.2d 20, 26 (Minn. App. 1987).

Here, WWB filed a Notice of Application for Determination and Establishment of Attorney's Lien and Entry of Judgment, which is the first step in perfecting the attorney lien. On a petition to establish an attorney lien, "the district court must determine (1) the lienholder; (2) the subject of the lien as defined by the attorney-lien statute; and (3) the amount due. The resulting judgment is in the nature of a declaratory judgment that establishes the lien . . ." *Dorsey, supra* at 422 (citation omitted). The attorney-lien statute permits only summary establishment—not summary enforcement—of an attorney lien. *Id.* "[E]stablishment of a lien pursuant to section 481.13, subdivision 1(c), enables the attorney to pursue any available methods for foreclosing on a security interest if the client does not satisfy the underlying debt." *Id.* at 421. "The resulting judgment is in the nature of a declaratory judgment that establishes the lien, as defined by the district court with regard to the lienholder, the subject, and the amount." *Id.*

Mr. Magnuson's Letter also suggests that it is too late for the Court to take any action to determine and establish the lien because WWB's Notice of Application for the attorney lien was filed after Primary Wave purchased Mr. Jackson's interest in the Prince Estate. The relevant statute says otherwise.

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Minnesota law clearly distinguishes between the **creation** of the attorney's lien and **perfection** of the lien. Under Minn. Stat § 481.13 subdivision (a), "the attorney has a lien for compensation whether the agreement for compensation is expressed or implied . . . upon the interest of the attorney's client in any money or property involved in or affected by any action or proceeding in which the attorney may have been employed, from the commencement of the action or proceeding, and, as against third parties, from the time of tiling the notice of the lien claim, as provided in this section." Minn. Stat. § 481.13, subd. 1(a) (2014).

The attorney "perfects" the lien "by serving upon the personal representative **before distribution is made**, a notice of intent to claim a lien for agreed compensation, or the reasonable value of services." Minn. Stat. § 525.491 (emphasis added). The perfecting of the lien under § 525.491 has the same effect as the perfecting of a lien under § 481.13, and the lien may be enforced accordingly. Establishing an attorney lien under Minn. Stat. § 481.13, subd. 1(c), enables the attorney to pursue any available methods for foreclosing on the lien, "including through the ordered sale or mortgage of the property to which the lien attaches." *Christensen Law Office, PLLC v. Olean*, 916 N.W.2d 876, 882 (Minn. Ct. App. 2018).

Mr. Magnuson's Letter also inquires as to who are the proper responding parties to the Application. It is difficult to see how Primary Wave will have any basis upon which to challenge the fees earned and the work performed by WWB on behalf of Mr. Jackson. Nonetheless, nothing in the statute precludes it from presenting evidence or argument on the issue during the summary proceedings should it desire to do so.

Finally, in a point that has no relevance or bearing on the attorney's lien sought here, Primary Wave incorrectly the Missouri Probate Court rejected WWB's claim for attorneys' fees in the Jackson probate proceedings, as if to suggest that the Application here is collaterally estopped or similarly precluded in this instance, despite the clear directive of Minn. Stat. §§ 481.13 and 525.491. WWB did indeed submit a claim for fees and expenses in the Jackson Estate, but did so without the signature of a Missouri-licensed attorney. Though WWB contends that the Missouri probate court erred when it dismissed WWB's claim on the grounds that the filing constituted the practice of law (and, therefore, had to be signed by a Missouri attorney), that ruling has no bearing on the issue of the Minnesota attorney lien for the work performed on behalf of Mr. Jackson. In any event, nothing precludes Primary Wave or any other interested person from pursuing the preclusion argument during the summary hearing to determine and establish the WWB attorney lien against the Prince Estate interests attributable to Mr. Jackson.

Respectfully Submitted

/s/ *Kennedy Barnes*