

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In Re:

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

Estate of Prince Rogers Nelson,
Decedent,

**REPLY IN SUPPORT OF COZEN
O'CONNOR'S MOTION TO APPROVE
PAYMENT OF ATTORNEYS' FEES
FROM FEBRUARY 1, 2017 THROUGH
JUNE 18, 2018**

Cozen O'Connor ("Cozen") submits this reply in support of its motion to approve payment of certain attorneys' fees from the Estate of Prince Rogers Nelson (the "Estate") for services that Cozen performed between February 1, 2017 and June 18, 2018 for the benefit of the Estate.

ARGUMENT

Comerica Bank & Trust, N.A., personal representative to the Estate (the "Personal Representative"), filed a partial objection to the Heirs'¹ attorneys' fees motions. (*See* Comerica Bank & Trust, N.A.'s Memorandum in Response to Heirs' Attorney Fee Motions, filed April 15, 2019, the "Response.") While the Personal Representative agreed Cozen was entitled to fees for certain categories,² it erroneously objected to other categories. The overriding theme of the Personal Representative's response appears to be that only when the Heirs agreed with its course of conduct should the fees be granted. This ignores the importance of the Heirs' role in raising

¹ Prince's Heirs are Omarr Baker, Alfred Jackson, Sharon Nelson, Norrine Nelson, John Nelson, and Tyka Nelson. *See* Order Determining Intestacy, Heirship & McMillan Matters, filed May 18, 2017.

² The Personal Representative did not object to Cozen's recovery of fees from the following categories: Heirship, UMG Agreement Rescission, Petition to Remove Comerica as Personal Representative, and Koppelman/McMillan/Second Special Administrator. *See* Response at 4-7.

legitimate and rational disagreements with the Estate's administration. The Heirs have a right to pursue what they believed was in the Estate's best interest—as well as in the best interest of their brother's legacy. The Estate should reimburse the Heirs' counsel for these fees.

As set forth in greater detail in Cozen's motions filed on January 10 and March 29, 2019, the Court may order payment for “the services of an attorney for any interested person *contribute to the benefit of the estate*, as such, as distinguished from the personal benefit of such person.” *See* Minn. Stat. § 524.3-720 (emphasis added). Both of the categories to which the Personal Representative objected benefited the Estate.

A. Cozen is Entitled to an Award for Fees Related to Informing the Heirs.

The Heirs to the Estate will be responsible for its administration after the Personal Representative's work is complete. From the outset, the Court has emphasized the necessity of keeping the Heirs apprised of the Estate's actions, and of the Special Administrator and later the Personal Representative maintaining communication with the Heirs. This meant the Heirs' counsel had to describe to the Heirs each proceeding taking place before the district court, analyze and interpret the entertainment deals being proposed, and act as a liaison between the Estate's administrator and the Heirs to (1) protect the Heirs' rights in the Estate administration, and (2) ensure the Estate administration was occurring in an effective and fair manner. These efforts have benefited the Estate by ensuring the Heirs—who will ultimately be responsible for the Estate—stayed apprised of all that was occurring in the Estate. As the Personal Representative admits, such monitoring often resulted in rightful objections that benefited the Estate. (*See* Response at 7 (“Cozen's objections eventually led to the appointment of the Second Special Administrator . . . and is now in the process of seeking recovery of more than \$3.2 million in commissions . . .”).)

To keep its clients informed, Cozen needed to analyze the proposed entertainment deals, analyze Bremer's actions, analyze Bremer's advisors' actions, attend court appearances, make filings when necessary, and communicate with its clients regarding all of the above. (*See* Affidavit of Thomas P. Kane filed Jan. 10, 2019 ("Kane Aff."), at ¶¶ 112-113.) In such a complex estate, ensuring full knowledge and understanding for the individuals set to inherit was crucial. The Personal Representative appears to object to such fees as they did not confer a direct benefit on itself, the Personal Representative. However, the standard is whether these fees benefited the *Estate*. As described above and in prior filings, they undeniably did. For the Personal Representative to object to time spent informing the Heirs is inconsistent with the language in Minn. Stat. § 524.3-720 and goes against the Court of Appeals' order relating to these fees. *See In the Matter of the Estate of Prince Rogers Nelson, Decedent*, No. A17-0880, 2018 WL 492639, at *6 (Minn. Ct. App. Jan. 22, 2018) (mandating that the district court "should consider the big picture.").

B. Cozen is Entitled to an Award for Fees Related to the Discharge, Accounting, and Fees of the Special Administrator.

Regarding the fees Cozen incurred in objecting to the Special Administrator, Bremer Trust, National Association (the "Special Administrator"), the Personal Representative's objections are contradictory. On one hand, the Personal Representative lauds Cozen for its efforts in objecting to the actions of Special Administrator's advisors, Charles Koppelman and L. Londell McMillan. (*See* Response at 7 ("Cozen was instrumental in exposing the misconduct of the former Special Administrator's advisors Charles Koppelman and L. Londell McMillan, particular as it related to the Estate's agreement and subsequent dispute with Jobu Presents.")) On the other hand, the Personal Representative lambasts Cozen's efforts in objecting to the Special Administrator's discharge. (*Id.* at 9 ("The Court has discharged the former Special Administrator and, rather than

benefitting the Estate, Cozen and Mr. Bruntjen’s filings related to the former Special Administrator led to the Estate paying hundreds of thousands of additional attorneys’ fees incurred by the former Special Administrator.”).³

Cozen attorneys used their best judgment in separating the fees by categories because the district court requested such a presentation. Given the nature of this Estate, however, certain categories are naturally overlapping. The Court of Appeals recognized this as a shortcoming of a categories-based approach. *See Nelson*, 2018 WL 492639, at *6 (“the district court need not employ a line-by-line method of determining compensation,” unless in its discretion it “deems such a method to be helpful or appropriate.”). The “McMillan/Koppelman” and “Special Administrator” categories naturally overlap, and the fees requested in these categories are interrelated. When the Special Administrator appointed its advisors, Cozen objected. When the Special Administrator requested fees related to those advisors, Cozen objected. When the Special Administrator proposed Jobu Presents for the Tribute, Cozen objected. And when the Special Administrator’s actions led to rescission of the UMG Agreement, Cozen supported the Personal Representative’s motion to rescind the agreement.

Each of these actions arguably could fall into more than one category of fees. As the U.S. Supreme Court recognized in *Hensley v. Eckerhart*, a party may recover fees incurred when the claims “involve a common core of facts” or are “based on related legal theories.” 461 U.S. 424, 425 (1983). Cozen is entitled to an award of fees related to the Special Administrator, as it is

³ Notably, the Special Administrator was only discharged after a lengthy stay (during which the Second Special Administrator conducted its investigations) and after Cozen withdrew as counsel. The discharge motion was held without any meaningful defense to the action. Regardless, as an Heirs’ counsel, Cozen was able to discover and prosecute substantial claims against the Special Administrator and its advisors that were only dismissed after they were no longer involved. In contrast to the Personal Representative’s argument, this demonstrates the necessity of counsel for the Heirs in what was and continues to be an intensely complicated matter.

related to the advisors and it is undisputed that the fees benefited the Estate. Judge Solum and the Personal Representative both recognized that benefit. (*See* Response at 7; Order on Remanded Fees filed October 4, 2018 at 16 (“Importantly, there is evidence of the Cozen firm[’s] somewhat prophetic then-existing concern about both the appointment of the entertainment advisors and the engagement of Jobu Presents.”).) By objecting to fees relating to the Special Administrator while supporting fees related to its advisors, the Personal Representative has arbitrarily decided what is permitted under Minn. Stat. § 524.3-720, rather than allowing the Court to assess whether such work benefited the Estate.

In addition to the reasons previously presented to the Court, Cozen presents the following three reasons why its fees requested relating to the Special Administrator benefited the Estate. *First*, it fell to the Heirs to object to the Special Administrator because the Personal Representative entered the Common Interest Agreement. (*See* Order Appointing Second Special Administrator, filed Aug. 21, 2017, at 1.) In appointing the Second Special Administrator, the Court found that since “[t]he Personal Representative cannot or should not act to investigate the circumstances leading to the rescission of the UMG Agreement due in part to its Common Interest Agreement with the former Special Administrator,” the Second Special Administrator had to be appointed. (*Id.*) Had Cozen not raised the issues surrounding the Special Administrator and its advisors, the investigation never would have taken place, as the Personal Representative could not have conducted such an investigation.

Second, even before appointment of the Second Special Administrator, Cozen’s actions were crucial. Without Cozen and the other Heirs’ counsel monitoring and objecting, there was no one checking the Special Administrator’s actions. Among other things, without Cozen’s actions the Court would not have stayed the Special Administrator’s discharge or rescinded the UMG

Agreement. (Kane Aff., ¶¶ 26, 29 n.1; Order Staying Discharge of Special Administrator, dated April 12, 2017; Remanded Fees Order at 18 n.18 (recognizing Cozen, “which took the laboring oar in respect to contesting positions and fees of the Special Administrator when there was no one else doing so.”).) The Personal Representative cannot credibly argue these actions did not benefit the Estate.

Third, Cozen is not required to identify a quantifiable monetary basis—*i.e.*, the Estate’s recovery from the Special Administrator—in order to recover fees related to the Special Administrator.⁴ Instead, the Court must look to the “big picture” to find these fees benefited the Estate. And Judge Solum has already recognized that Cozen’s efforts related to the Special Administrator’s actions benefited the Estate, regardless of the quantifiable monetary amount:

While there has been no showing that such work has yet successfully resulted in a quantifiable monetary benefit, it does seem that the oppositions have been of benefit to the potential claims of the Estate now being pursued by the Second Special Administrator, and the laboring oar on this work has been Cozen. Moreover, oppositions to acts or positions of a special administrator, particularly when related submissions invited by and important to the Court, are beneficial to the judicial management of a large and complex estate, as without the same there often would be no ‘full picture’ on which a trial court can make related determinations.

(Remanded Fees Order at 17, emphasis added.) Judge Solum recognized the benefit of Cozen, “which took the laboring oar in respect to contesting positions and fees of the Special Administrator when there was no one else doing so.” (*Id.* at 18 n.18.) Cozen’s work benefited the Estate by ensuring a thorough investigation of potential claims against the Special Administrator, and the fees Cozen requests relating to the Special Administrator are just, reasonable, and commensurate with the benefit to the Estate.

⁴ The Personal Representative erroneously argues that “because they did not recover from the Special Administrator, Cozen and Mr. Bruntjen cannot be paid by the Estate for this category of fees as a matter of law.” Response at 9.

CONCLUSION

For all the foregoing reasons and as established in its opening briefs, Cozen O'Connor respectfully requests the Court authorize and direct the Personal Representative to pay the fees and costs identified in the motions filed on January 10 and March 29, 2019 from the assets of the Estate, as they benefited the Estate.

Dated: April 22, 2019

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