

STATE OF MINNESOTA  
COUNTY OF CARVER

DISTRICT COURT  
FIRST JUDICIAL DISTRICT  
PROBATE DIVISION

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In Re: Estate of  
Prince Rogers Nelson,

Case Type: Special Administration  
Court File No.: 10-PR-16-46

Decedent.

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**PERSONAL REPRESENTATIVE'S OBJECTION TO PETITION FOR ALLOWANCE  
OF CLAIMS PREVIOUSLY DISALLOWED OF RICKY BARRON, a/k/a RICK  
BARRON, d/b/a BARRON EVENT PLANNING**

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Comerica Bank & Trust, N.A., as Personal Representative of the Estate of Prince Rogers Nelson (the "Personal Representative"), respectfully objects to the "Petition for Allowance of Claim Previously Disallowed" filed on January 10, 2017 by Ricky Barron, a/k/a Rick Barron, d/b/a Barron Event Planning ("Barron"). The Personal Representative objects to the Petition, including on the grounds summarized below.

1. Barron's claims arise out of the cancellation of two separate charitable fundraising events which were to have taken place at Paisley Park Studios: Mixed Blood Theatre's 40<sup>th</sup> Anniversary Gala on May 14, 2016, and Make-A-Wish Minnesota's Wish Ball on May 21, 2016 (collectively, the "Cancelled Events").

2. Barron claims damages of \$56,260 based on work performed and projected profits as a result of the Cancelled Events.

3. Barron's claims have no basis in law or fact. As a threshold issue, Barron lacked the legal capacity and authority to contract on behalf of Paisley Park regarding the rental agreements.

4. Even assuming *arguendo* that Barron can establish that he was an agent of Paisley Park, he must also prove that he was acting within the nature and scope of his authority. An agent's actual authority consists of express and implied authority. Express authority is that authority directly granted by the principal to the agent; implied authority includes those powers essential to carry out the duties expressly delegated. *Hockemeyer v. Pooler*, 130 N.W.2d 367 (1964). *See generally* RESTATEMENT (SECOND) OF AGENCY § 7 (AM. LAW INST. 1958). Actual or implied authority of an agent rests on the intention of the parties, and the agent's authority is limited by the terms and conditions imposed on the agent by the principal. *See Riteway Carriers, Inc. v. Schue*, 79 N.W.2d 505 (1956); *Kelley v. Olson*, 136 N.W.2d 621 (1965).

5. The extent of an agent's authority depends on the will of the principal, and the principal is bound by the acts of the agent only to the extent of the authority, actual or apparent, that the principal has conferred on the agent. *See Hockemeyer*, 130 N.W.2d at 377. In circumstances where an agent is engaged for a particular purpose and authorized to do certain acts, the liability of the principal for the acts depend on: (a) the power actually conferred, (b) the power reasonably necessary for the execution of those actually conferred, (c) the powers derived from custom and usage, and (d) additional powers that the principal by his words or conduct leads third persons reasonably to believe that the agent possesses. *See Peterson v. Schober*, 256 N.W. 308 (1934); *Kilborn v. Prudential Ins. Co.*, 108 N.W. 861 (1906). Apparent authority consists of circumstances wherein the principal holds out the agent as possessing authority or knowingly permits the agent to act on its behalf. *See Hockemeyer*, 130 N.W.2d at 375.

6. Barron has not demonstrated that he possessed authority, express or apparent, nor that he acted within the scope of his authority when entering into the rental agreements on behalf of Paisley Park.

7. Another contractual deficiency includes, but is not limited to, the measure, proof and mitigation of Barron's purported damages.

8. Under Minnesota law, the general measure of damages for breach of contract is the amount that will place the non-breaching party in the same situation as if the contract had been fully performed. *See Peters v. Mut. Benefit Life Ins. Co.*, 420 N.W.2d 908, 915 (Minn. Ct. App. 1988). And in order for damages to be recoverable, they must have been within the contemplation of both parties at the time the contract was made, or so likely to result from the breach that they can be reasonably said to have been foreseen. *See Franklin Mfg. Co. v. Union Pacific R.R. Co.*, 248 N.W.2d 324, 325 (Minn. 1976).

9. Damages in the form of lost profits may be recovered where they are shown to be the natural and probable consequence of the act complained of and their amount is shown with a reasonable degree of certainty and exactness. And while this general rule does not require absolute certainty in proof, it does require that any anticipated profits must be grounded upon a reasonably sure basis of facts. *See Cardinal Consulting Co. v. Circo Resorts, Inc.*, 297 N.W.2d 260, 266-67 (Minn. 1980).

10. Moreover, a universally controlling damages principle provides that speculative, remote or conjectural damages are not recoverable. *See Leoni v. Bemis Co.*, 255 N.W.2d 824 (Minn. 1977); *Hornblower and Weeks-Hemphill Noyes v. Lazere*, 222 N.W.2d 799 (Minn. 1974). Because Barron's asserted damages are speculative, they are not recoverable.

11. In addition to contractual deficiencies, and given the extraordinary circumstances in the days and weeks immediately following Decedent's death, well-established affirmative defenses support the Personal Representative's denial of Barron's claims. In particular, the

undue hardship and impossibility of performance defense is applicable here. Under Minnesota law:

[T]he term ‘impossibility’ is not limited to a scientific or actual impossibility of performance. Except where a contrary intent is manifest, and except where the impossibility or impracticability of performance is wholly attributable to the subjective inability of the promisor, performance of a contractual duty may be excused when, due to the existence of a fact or circumstance of which the promisor at the time of the making of the contract neither knew nor had reason to know, performance becomes impossible, or becomes impracticable in the sense that performance would cast upon the promisor an excessive or unreasonably burdensome hardship, loss, expense, or injury.

*Powers v. Siats*, 70 N.W.2d 344, 348 (Minn. 1955); see also 4 MINNESOTA DISTRICT JUDGES ASSOCIATION, COMMITTEE ON JURY INSTRUCTION GUIDES – CIVIL, MINNESOTA PRACTICE SERIES: MINNESOTA JURY INSTRUCTION GUIDES – CIVIL CIVJIG 20.80 (6th ed. 2014). Elaborating on the rule, the *Powers* court emphasized that the “impossibility” or impracticability needs to arise from unanticipated circumstances. *Powers*, 70 N.W.2d at 349 (noting that “[a] mere difficulty of performance does not ordinarily excuse the promisor, but where a great increase in expense or difficulty is caused by a circumstance not only unanticipated but inconsistent with the facts which the parties obviously assumed as likely to continue, the basic reason for excusing the promisor from liability may be present”).

12. Prior to his death, Decedent had committed to allowing the use of Paisley Park for certain charitable purposes. Under the *Powers* standard, unexpected factual circumstances that arose due to Decedent’s death excuses the nonperformance of any obligation to allow the use of Paisley Park. Specifically, following Decedent’s death, Paisley Park was the site of a death investigation, and therefore the scene had to be preserved. In addition, Paisley Park was the location of a significant amount of property that would be subject to the estate proceedings. As a result, allowing third-party use of Paisley Park would have obstructed law enforcement duties, as

well as expose Decedent's estate to potential significant financial loss that could not have been contemplated when the use of the residence was initially agreed to. Allowing Paisley Park to be used for charity functions shortly after Decedent's death would subject his estate to "unreasonably burdensome hardship, loss, expense, or injury." *Powers*, 70 N.W.2d at 348. These circumstances rendered performance impracticable, and therefore it should be excused pursuant to the *Powers* standard.

13. In light of the contractual deficiencies and affirmative defenses available to the Personal Representative, Barron cannot succeed on his Petition.

14. Unless specifically admitted, the Personal Representative denies each and every allegation, claim and request in the Petition. The Personal Representative further specifically denies the allegations, claims, and demand contained in Barron's request for relief.

WHEREFORE, the Personal Representative respectfully requests that the Court enter an order:

1. Denying in its entirety Barron's Petition for Allowance of Claims Previously Disallowed;
2. Awarding the Personal Representative attorneys' fees, costs, and expenses incurred herein; and
3. Granting such further relief as the Court may deem just, equitable, and proper.

Dated: March 22, 2017

/s/ Terrence J. Fleming  
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