

STATE OF MINNESOTA  
COUNTY OF CARVER

DISTRICT COURT  
PROBATE DIVISION  
FIRST JUDICIAL DISTRICT

Court File No.: 10-PR-16-46

In Re Estate of:

Prince Rogers Nelson,

**REDACTED**

Deceased.

**MEMORANDUM IN SUPPORT OF  
JOINT PETITION FOR GENERAL  
ADMINISTRATION OF ESTATE,  
FORMAL ADJUDICATION OF  
INTESTACY, DETERMINATION OF  
HEIRS, AND APPOINTMENT OF  
PERSONAL REPRESENTATIVES**

**INTRODUCTION**

Sharon L. Nelson, Norrine P. Nelson and John R. Nelson (“Petitioners”) submit this Memorandum in support of their Joint Petition for General Administration of Estate, Formal Adjudication of Intestacy, Determination of Heirs and Appointment of Co-Personal Representatives (“the Petition”).

**BACKGROUND**

Prince Rogers Nelson (“Decedent”) died on April 21, 2016. In prior proceedings in this Court the following individuals have been identified as non-excluded heirs: Sharon L. Nelson, Norrine P. Nelson, John R. Nelson, Tyka Nelson, Omarr Baker, and Alfred Jackson.

The Petition seeks the appointment of Comerica Bank & Trust, N.A. (“Comerica”), as the corporate personal representative of Decedent’s estate, and L.

Londell McMillan (“McMillan”), as an individual co-personal representative of Decedent’s estate.

Alfred Jackson (“Jackson”) has filed a Nomination of Personal Representative and Renunciation of Priority for Appointment pursuant to which he nominates Comerica and McMillan as co-personal representatives.

Tyka Nelson (“Tyka”) has also filed a Petition for Formal Adjudication of Intestacy, Determination of Heirs and Appointment of Personal Representative requesting appointment of Fiduciary Trust Company International as personal representative, or in the alternative, appointment of Comerica as personal representative.

Omarr Baker (“Baker”) has also filed a Petition for Formal Adjudication of Intestacy, Determination of Heirs and Appointment of Personal Representative which seeks the appointment of Comerica and Anthony Jones (“Jones”) as co-personal representatives of Decedent’s estate.

### **ARGUMENT**

Minn. Stat. § 524.3-203(a) (2016) determines the priority among persons seeking appointment as personal representative. Each of the non-excluded heirs has equal priority pursuant to subparagraph (a)(5) as “other heirs of the decedent.” Under Minn. Stat. § 534.3-203(c), each heir may nominate a qualified person to act as personal representative for the estate.

A person entitled to letters under (2) to (5) of (a) above may nominate a qualified person to act as personal representative . . . . When two or more persons share a priority, those of them who do not renounce must concur in nominating another to act for them, or in applying for appointment.

All of the heirs have concurred in the nomination of Comerica as personal representative.

Four of the heirs have also nominated McMillan to act as co-personal representative. Tyka Nelson and Omarr Baker do not support the appointment of McMillan. In the case of objection to an appointment, the provisions of Minn. Stat. § 524.3-203(b) apply. Paragraph (b)(2) provides that:

the Court may appoint a person who is acceptable to heirs and devisees whose interests in the estate appear to be worth in total more than half of the probable distributable value, or, in default of this accord any suitable person.

McMillan has been nominated by heirs whose interests appear to be worth more than half of the probable distributable value of the estate, and, as discussed below, he is eminently suitable.

The Court ultimately chooses who should be appointed as personal representative. Minn. Stat. § 524.3-203(h)(2); *see Crosby v. Hunt (In re Estate of Crosby)*, 218 Minn. 149, 157–58, 15 N.W.2d 501, 506 (1944) (stating that the district court has discretion to determine the suitability of a personal representative, and such determination will not be reversed unless there has been an abuse of discretion); *In re Estate of Michaelson*, 383 N.W.2d 353 (Minn. Ct. App. 1986) (holding that the district court did not abuse its discretion in removing appellant as personal representative of the estate and appointing a third party).

The statutes clearly anticipate an estate such as the present one in which the heirs are unable to agree upon the appointment of a personal representative. In the event of an objection, the Court is authorized to appoint a person supported by a simple majority in

interests of the heirs. The Comment to Uniform Probate Code, § 2-2-3, Priority Among Persons Seeking Appointment as Personal Representative, upon which our statute is based, provides as follows:

If the proceedings are formal, a person with a substantial interest may object to the selection of one having priority other than because of will provisions. The provision for *majority approval*, which is triggered by such a protest can be handled in a formal proceeding since all interested persons will be before the court, and a judge capable of handling discretionary matters, will be involved.

Unif. Probate Code § 3-203 (emphasis added).

Petitioners believe that prior conflict between the heirs and the Special Administrator has been due in part to a lack of clarity, transparency and communication caused by the Special Administrator communicating with the heirs, even on basic matters, through the Special Administrator's counsel. Petitioners believe that using counsel to communicate with the heirs and otherwise manage the Estate administration resulted in the administration process being inefficient and unnecessarily expensive and contributed to conflict, excessive demands upon the Court to resolve disputes, and a general lack of trust. The appointment of an individual co-personal representative is essential to improve the interaction between the heirs and the Estate.

The Estate is essentially a very sophisticated music and entertainment business, the challenges of which are not common and not to be understated. Clearly, having an expert in the music and entertainment business as a co-personal representative and fiduciary would complement the corporate personal representative, assisting with its fiduciary duties related to the music and entertainment business and additionally providing a method of direct communication with the heirs. Petitioners believe that the

failure to appoint an individual co-personal representative with experience in the music and entertainment business, such as McMillan, will increase the potential for a repeat of the inefficiencies, conflict and expense that occurred in the special administration.

In addition to being supported by four of the six beneficiaries, McMillan is uniquely qualified to serve as co-personal representative. [REDACTED]

McMillan has the distinction of being the person who served Decedent the longest as a business and legal advisor in his life and career, handling his business and personal

affairs at the highest level. Decedent trusted McMillan, personally acknowledging and crediting McMillan on numerous occasions for his support and excellent service. Furthermore, McMillan has been involved with the administration of estates and representation of heirs of high-profile estates with entertainment assets or historical significance, including the estates of The Beatles, Michael Jackson, and Sammy Davis, Jr. (Affidavit of L. Londell McMillan, dated December 7, 2016, filed in support of the Petition.)

The appointment of McMillan as co-personal representative has the added significant advantage of providing continuity in the management and preservation of the intellectual property of the Estate because, as an Advisor retained by the Special Administrator, he has been instrumental in the significant business deals completed by the Estate to date.

Baker has nominated Jones as co-personal representative. Jones does not have the music and entertainment industry experience needed to manage the assets unique to this estate or to hire, supervise and manage the entertainment industry advisors necessary to administer the estate. Additionally, Jones is co-counsel for Baker, and has served as Baker's lead counsel in these proceedings for several months. Acknowledging the conflict in acting as co-personal representative while also representing Baker, the petition states "If appointed, Van Jones will withdraw as counsel for Baker, and Baker will waive any conflicts." (Baker Petition for Formal Adjudication of Intestacy, Determination of Heirs and Appointment of Personal Representative, dated December 13, 2016.)

Petitioners filed an Objection to Baker's Petition to the extent it sought the appointment of Jones.

Jones has now also become counsel of record for Tyka (Substitution of Counsel and Consent to Substitution, dated January 3, 2017). Presumably, if appointed, Jones would also withdraw as counsel for Tyka, just as he would for Baker. However, while Baker and Tyka would understandably not object to their former attorney serving as co-personal representative, Petitioners most strenuously do object.

Minn. Stat. § 524.3-203(e) (2016) provides:

(e) Appointment of one who does not have priority, including priority resulting from disclaimer, renunciation or nomination determined pursuant to this section, may be made only in formal proceedings. Before appointing one without priority, the court must determine that those having priority, although given notice of the proceedings, have failed to request appointment or nominate another for appointment, and that administration is necessary.

Jones does not have priority because only one of the six heirs has nominated him (though Tyka presumably supports his nomination). On the other hand, Petitioners and Jackson, a majority in interest of those having priority, have nominated McMillan. Thus, not only would appointment of Jones as co-personal representative create a conflict of interest which Petitioners would not waive, Jones does not have priority and is ineligible to be appointed pursuant to the plain language of Minn. Stat. § 524.3-203(e) (2016).

### **CONCLUSION**

Petitioners request the appointment of Comerica Bank & Trust, N.A., and L. Londell McMillan as co-personal representatives. There is no disagreement among the heirs regarding the appointment of Comerica. Also, all of the heirs recognize and support

the need for an individual co-personal representative, though disagreeing on who should serve in that role.

As between the two proposed individual nominees, the choice is clear. Petitioners and Jackson, four of the six heirs, support the appointment of McMillan, which meets the standard provided for in Minn. Stat. § 524.3-203(b)(2). Jones is supported by only two of the heirs, and as their attorney, has a conflict of interest in serving as co-personal representative. Furthermore, McMillan is uniquely suited to complement Comerica which can handle the tax, financial and administrative duties, yet needs a co-personal representative knowledgeable in the music and entertainment business. McMillan's appointment would be in the best interests of the Estate because of his extensive qualifications in the music and entertainment industry, his prior experience working on behalf of the Special Administrator and his personal knowledge of and history with Prince Rogers Nelson and his music. Petitioners oppose the appointment of a sole corporate personal representative and request the appointment of Comerica and McMillan as co-personal representatives.

Respectfully submitted,

HANSEN DORDELL

By s/ Randall W. Sayers  
Randall W. Sayers

Attorneys for Sharon L. Nelson, Norrine P. Nelson  
and John R. Nelson:

Randall W. Sayers, #130746

Nathaniel A. Dahi, #390096

Adam J. Rohne, #392430

Hansen, Dordell, Bradt, Odlaug & Bradt, PLLP

3900 Northwoods Drive, Suite 250

St. Paul MN 55112-6973

651/482-8900

Emails: [rsayers@hansendordell.com](mailto:rsayers@hansendordell.com)

[ndahl@hansendordell.com](mailto:ndahl@hansendordell.com)

[arohne@hansendordell.com](mailto:arohne@hansendordell.com)