

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In re:

Court File No. 10-PR-16-46

Estate of Prince Rogers Nelson,

Honorable Kevin W. Eide

Decedent.

**[PROPOSED] ORDER ENTERING
PARTIAL FINAL JUDGMENT PURSUANT
TO RULE 54.02 AND APPROVING
PAYMENT OF ATTORNEYS' FEES AND
COSTS**

The above-captioned matter came on for hearing before the Honorable Kevin W. Eide of the Carver County District Court on April 17, 2019 upon the motion of Bremer Bank, National Association, formerly Bremer Trust, National Association (“Bremer Trust”), for Entry of Partial Final Judgment pursuant to Rule 54.02 and to Approve Payment of Attorneys’ Fees and Costs (“Motion”). Counsel appearances were as noted in the record.

Based upon all of the files, records and proceedings submitted to the Court, including the Affidavits of Julian C. Zebot and Laura E. Halferty in Support of the Motion, the Court makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Bremer Trust served as Special Administrator of the Estate of Prince Rogers Nelson (“Estate”) for the first nine months of the Estate’s administration from April 27, 2016, through January 31, 2017. At the end of its service, Bremer Trust sought to be discharged. This Court held a full-day evidentiary hearing on Bremer Trust's motion for discharge and its accounting on January 12, 2017. On March 27, 2017, the Court granted Bremer Trust's motion for discharge.

2. Shortly thereafter, the Court stayed its discharge of Bremer Trust as a result of new information. The Court then appointed a Second Special Administrator (“SSA”), who, at the Court’s direction, conducted two separate investigations into discrete aspects of Bremer's service to the Estate. At the conclusion of each investigation, the SSA concluded that no viable claims existed against Bremer Trust. However, the SSA suggested that the Estate could assert claims against particular *agents* that Bremer Trust had hired. On June 14, 2018, the Court authorized the SSA to pursue such claims.

3. After being absolved of any wrongdoing by the SSA, Bremer Trust moved to lift the stay of discharge and to authorize payment of its attorneys' fees incurred through July 2018. After receiving briefs from multiple parties, and hearing over an hour of oral argument on July 19, 2018, the Court granted the motion by Order dated October 17, 2018 (the “Amended Discharge Order”). In doing so, the Court reinstated its March 27, 2017 Order as to Bremer Trust’s discharge:

The portion of the Court's March 27, 2017 Order stating that Bremer Trust and its agents are hereby discharged from any and all liability to the Estate of Prince Rogers Nelson associated with its Special Administration of the Estate is hereby reinstated.

Id.

4. In response, the SSA wrote the Court on October 23, 2018, asking the Court to clarify whether the Amended Discharge Order was intended to fully absolve all of Bremer Trust's agents, including those whom the Court had authorized the SSA to seek relief against on behalf of the Estate. The Court requested submissions on the issue raised by the SSA, setting a deadline of November 9, 2018. Multiple parties, including Bremer Trust, filed submissions.

5. However, before this Court had issued any clarification of its Amended Discharge Order, or otherwise responded substantively to the SSA's query, Alfred Jackson filed an appeal

on November 16, 2018. Bremer Trust moved to dismiss the appeal for lack of jurisdiction, and Mr. Jackson subsequently agreed to withdraw his appeal.

6. On January 2, 2019, this Court issued its Second Amended Order & Memorandum Granting Bremer Trust's Motion to Lift Stay of Discharge and Approve Payment of Attorneys' Fees and Costs (“Second Amended Discharge Order”). That Second Amended Discharge Order limited the set of agents who were discharged, clarifying that none of the agents that the Court had authorized the SSA to pursue claims against were discharged. It did not, however, direct entry of partial final judgment as to Bremer Trust.

7. The Minnesota Supreme Court has provided guidance on the issuance of partial final judgment orders under Rule 54.02. In *Contractors Edge, Inc. v. City of Mankato*, 863 N.W.2d 765, 769 (Minn. 2015), the court stated:

A district court has discretion to “allow a piecemeal appeal if the parties or claims are clearly separable and no prejudice would result from appeal.” *Novus Equities Corp. v. EM-TY P’ship*, 381 N.W.2d 426, 428 (Minn.1986) (citation omitted) (internal quotation marks omitted). When deciding whether to certify, the district court should “weigh[] the overall policy against piecemeal appeals against whatever exigencies the case at hand may present.” *Panichella v. Pa. R.R.*, 252 F.2d 452, 455 (3d Cir.1958).

8. While noting that a district court is not required to explain its rationale for deciding to certify a partial final judgment under Rule 54.02, the court strongly encouraged such explanations, stating: “it is a preferred practice for the district court to provide a written explanation for the certification decision.” *Id.*

9. The court also gave examples of several appropriate cases for certification, such as the possibility of hardship that could result from a delayed appeal, the parties’ desire to adjudicate one claim fully before deciding whether to continue to trial on another, expense, delay, shortening the length of a trial, frivolity of competing claims, and the possibility that another claim or counterclaim could offset the judgment. *Id.*

10. In this case, certification of partial final judgment under Rule 54.02 is proper with respect to Bremer Trust's discharge as former Special Administrator of the Estate. Rule 54.02 permits entry of a partial final judgment as to "one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment." The Court has fully adjudicated all issues relating to Bremer Trust's administration of the Estate. Those issues are distinct and separable from the other potential claims with respect to the Estate, and no party has demonstrated that any prejudice would result from making Bremer Trust's discharge immediately appealable.

11. Entering partial final judgment as to the Court's order discharging Bremer Trust will enable an efficient appellate review of any issues with respect to its involvement in the Estate. The benefits from an immediate appeal of the Second Amended Discharge Order include judicial economy and efficiency. As this Court has previously observed, the Estate could potentially take several years to close. Both Bremer Trust and the Estate will be prejudiced if it is forced to sit by while the ongoing administration plays out, only to potentially face an appeal years later after the Estate has been closed.

12. In connection with its Motion, Bremer Trust also seeks payment and/or reimbursement of the attorneys' fees and costs it has incurred since July 2018. Minn. Stat. § 524.3-720 provides that "[a]ny personal representative or person nominated as personal representative who defends or prosecutes any proceeding in good faith, whether successful or not, ... is entitled to receive from the estate necessary expenses and disbursements included reasonable attorneys' fees incurred." Minn. Stat. § 524.3-720 (2018). Minn. Stat. § 525.515 provides that any attorney performing services for the estate at the behest of a personal

representative or special administrator should receive “just and reasonable” compensation. Minn. Stat. § 525.515(a) (2018).

13. The Court has carefully reviewed the invoices submitted by Bremer Trust for which it seeks payment and/or reimbursement. The Court finds these invoices were for work performed in connection with Bremer Trust’s administration of the Estate, necessitated by the stay of discharge, the lifting of that stay, and ongoing related litigation. Pursuant to Minn. Stat. § 525.515(b), based upon the time and labor required; the experience and knowledge of the attorneys involved; the complexity and novelty of problems involve; the extent of the responsibilities assumed and the results obtained; and the sufficiency of assets properly available to pay for the services, the Court further finds the invoiced attorneys’ fees and costs to be fair and reasonable under the circumstances.

For all of the reasons outlined above, the Court makes the following:

ORDER

1. Bremer Trust’s Motion is **GRANTED**.
2. The Second Amended Discharge Order is hereby modified pursuant to Minn. R. Civ. P. 54.02.
3. The Second Amended Discharge Order resolved all liability as to Bremer Trust with respect to its administration of the Estate, and therefore it is proper to direct entry of a partial final judgment in order to permit an immediate appeal as to its discharge.
4. There is no just reason for delay, and the Court hereby directs the entry of a partial final judgment based upon its Second Amended Discharge Order.
5. Any party with standing to do so shall be permitted to appeal the resulting judgment immediately.

6. The attorneys' fees and costs incurred by the attorneys at Maslon LLP on behalf of Bremer Trust from July 1, 2018 through February 28, 2019, and detailed in the invoices attached to the Affidavit of Julian C. Zebot in Support of the Motion, are **APPROVED** in accordance with Minnesota Statutes §§ 524-720 and 525.515. The Estate is ordered to reimburse Bremer Trust for the attorneys' fees and costs detailed in those Invoices.

7. The attorneys' fees and costs incurred by the attorneys at Stinson Leonard Street LLP ("Stinson") on behalf of Bremer Trust from October 18, 2018 through the end of March, 2019 and detailed in the invoices attached to the Affidavit of Laura E. Halferty in Support of the Motion, are **APPROVED** in accordance with Minnesota Statutes §§ 524-720 and 525.515. The Estate is ordered to reimburse Bremer Trust for the attorneys' fees and costs detailed in those invoices.

8. To the extent additional attorneys' fees and costs are incurred in the future by Bremer Trust with respect to its administration of the Estate, either on appeal from the Second Amended Discharge order or otherwise, the Court finds it reasonable and appropriate for such fees and costs to be paid directly from the Estate, and it directs the Personal Representative to pay any such fees and costs from the Estate in the ordinary course, as it would with any other set of administrative expenses.

**THERE BEING NO JUST REASON FOR DELAY, LET JUDGMENT BE
ENTERED ACCORDINGLY.**

Dated this ____ day of _____, 2019

BY THE COURT:

The Honorable Kevin W. Eide
Judge of District Court

4819-9921-0376