

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
PROBATE DIVISION
Case Type: Special Administration

Court File No. 10-PR-16-46

In the Matter of:

Estate of Prince Rogers Nelson,

Decedent.

**ORDER REGARDING DISCOVERY
MOTIONS AND THE SCOPE OF THE
OCTOBER EVIDENTIARY HEARING**

The above entitled matter came on before the Court on June 19, 2020, for a remote hearing through VMR. Appearances were noted on the record. On April 20, 2020, the Court filed a Scheduling Order regarding the Second Special Administrator's motion to recoup commissions paid to Charles Kopleman and CAK Entertainment, INC., and L. Londell McMillian and NorthStar Enterprises Worldwide, Inc. from an agreement entered into between the Estate of Prince Rogers Nelson and Universal Music Group, Inc. In the same Scheduling Order, the Court opined about the scope of the evidentiary hearing being scheduled but invited the parties to seek review of the scope of issues to be presented in the evidentiary hearing as set forth in the Order. The following motions were subsequently filed: Second Special Administrator's Motion to Quash filed on May 21, 2020; Warner Records, Inc.'s Motion for a Protective Order and to Quash filed May 22, 2020; and UMG Recordings, Inc. and Universal Music Group, Inc.'s Motion to Quash filed May 22, 2020; NorthStar's Motion for Review of the Scope of the Hearing filed June 5, 2020; NorthStar's Motion to Compel filed June 5, 2020; and CAK Entertainment's Motion for Review of the Scope of the Hearing filed June 5, 2020. Numerous Memorandum have been filed in favor of, and in opposition to, the various motions along with a flurry of last minute letters. The Court will address the various Motions. The Court appreciates the parties' attempts to resolve some of the issues and several agreements have been reached, which will be incorporated into this Order.

Regarding the scope of the October 13, 2020, evidentiary hearing that has been scheduled by the Court, the Court stated in the April 20, 2020, Scheduling Order:

“As to the UMG Agreement rescission, the Court makes the preliminary ruling that the Second Special Administrator does not need to establish that the UMG Agreement overlapped the Warner Brothers Agreement but, instead, that the Estate had reasonable and

articulable concerns about the overlap such that, considering the other alternatives available to the Estate, it was reasonable and prudent for the Estate to rescind the agreement. Further, the Second Special Administrator would need to prove that the entertainment advisors knew, or had reason to know, of the potential for the overlap, before recommending the approval of the UMG Agreement.

“The Court is not convinced that the result in this proceeding will be all or nothing. If the Court is ultimately persuaded, by the preponderance of the evidence, that the UMG Agreement was properly rescinded and the Estate did not get full value from the work of the advisors, some compensation may be considered reasonable and not excessive. For example, work done prior to the point where the advisors knew, or should have known, that the agreements potentially would overlap may be compensable. Also, work done in developing the UMG Agreement might have been used in the development of the agreement that ultimately replaced the UMG Agreement. If this is argued, the Court would need to determine what compensation was reasonable.”

At the hearing, attorneys for the Estate, CAK Entertainment, Inc. and NorthStar Enterprises Worldwide, Inc. all discussed their positions on whether a ruling on the application of the terms of the Advisor Agreement would be dispositive of the underlying motion brought by the Second Special Administrator. The parties agreed to set a summary judgment motion regarding the terms of the Advisor Agreement and they will work with Ms. Shirk to schedule a hearing. At this time the Court is not contemplating continuing the Evidentiary Hearing set for October 13, 2020 so the parties may choose to hold off on discovery until the summary judgment motion is decided or proceed with discovery at this time.

Now, therefore, the Court makes the following:

ORDER

1. The motion of the Second Special Administrator to quash the March 17, 2020 subpoena served by Charles Koppelman and CAK Entertainment, Inc. to the extent it seeks a deposition of the SSA or Peter Gleekel is hereby GRANTED.

2. The Court hereby amends the Scheduling Orders as follows. The Second Special Administrator shall serve and file a witness list for the October 13, 2020, evidentiary hearing no later than August 21, 2020. Thereafter, the list of witnesses to be called by the Second Special Administrator shall be amended only under exceptional circumstances and only upon leave of the Court. The Second Special Administrator shall serve and file an exhibit list no later than September 14, 2020. Thereafter, the list of exhibits to be introduced by the Second Special

Administrator shall be amended only under exceptional circumstances and only upon leave of the Court. The orders set forth in this paragraph do require the designation of expert witnesses to be called by the Second Special Administrator but do not require the disclosure of a summary of expected opinions (due on September 18, 2020) and do not affect the designation of rebuttal experts (required by September 30, 2020).

3. The motions of Warner Bros. Records, Inc. to Quash the Subpeona Duces Tecum and Ad Testificandum issued by CAK Entertainment, Inc. and for a protective order regarding the Subpoena Ad Testificandum issued by NorthStar Enterprises Worldwide, Inc. to Marc Cimona are hereby GRANTED, except as set forth in Paragraph 5 herein.

4. Unless otherwise stipulated by the parties, the motions of UMG Recordings, Inc. and Universal Music Group, Inc. to quash the subpoena for documents and deposition testimony that CAK Entertainment, Inc. served on UMG Recordings, Inc. and the subpoenas for deposition that NorthStar Enterprises Worldwide, Inc. served upon Universal Music Group, Inc. but which seek to depose Michele Anthony and Marc Cimino are hereby GRANTED, except as set forth in paragraph 5 herein.

5. Universal Music Group, Inc. and Warner Bros. Records, Inc. shall produce to the Second Special Administrator, CAK Entertainment, Inc. and NorthStar Enterprises Worldwide, Inc. emails and other written communications between Universal Music Group, Inc. and Warner Bros. Records, Inc., for the period of January 9, 2017 to August 13, 2017 to the extent the parties have previously agreed. The Court is specifically not requiring the disclosure of documents sent or received by, or copied to, Len Blavatnik unless the parties have otherwise agreed to produce them.

6. NorthStar Enterprises Worldwide, Inc.'s motion to compel the production of documents from Troy Carter, filed June 5, 2020, has been withdrawn and shall not be ruled upon.

7. The Court's statement of the issues to be addressed at the October 13, 2020, evidentiary hearing, as set forth above, is hereby reaffirmed.

8. A decision as to whether the Advisor Agreement controls the Court's determination is believed to be a question of law and shall be scheduled for an appropriate motion.

9. The Court shall enforce any agreement between the various parties for the payment attorney's fees resulting from these various motions. Unless the payment of attorney's fees has previously been agreed to, all requests for attorney's fees are hereby denied.

BY THE COURT:

Dated: June 19, 2020

Kevin W. Eide
Judge of District Court

MEMORANDUM

The Court agrees with the reasoning set forth in the Second Special Administrator's Memorandum of Law in Support of Motion to Quash Subpoena of Koppelman/CAK. The Court does not believe the actions and responsibilities of the Second Special Administrator can be parsed between services as an attorney and an investigator. The Second Special Administrator's work product cannot be neatly separated from its investigation. More importantly, the Court agrees that, as the Second Special Administrator had no role in the approval of the UMG Agreement and was not appointed until more than a year after the approval of the Agreement, all information that the Second Special Administrator has learned during his investigation, and all documents he has obtained, have come through other parties and can be obtained elsewhere.

The Court agrees, however, that due to the special powers granted to the Second Special Administrator, there may be information obtained by the Second Special Administrator which may be difficult for other parties to obtain. As much as it would be an undue burden to subject the Second Special Administrator to a deposition, it would be an undue burden upon the other parties to determine what information the Second Special Administrator had garnered and to be surprised by a witness or an exhibit. For this reason, the Court has required the witness and exhibit lists of the Second Special Administrator to be produced well in advance of the evidentiary hearing.

The Court further agrees with the arguments of Warner Bros. Records, Inc. and Universal Music Group, Inc. that the documents and knowledge of the advisors and the Estate that are relevant to this proceeding are those that were available to Charles Koppelman, CAK Entertainment, Inc., L. Londell McMillan, NorthStar Enterprises Worldwide, Inc., and the Estate of Prince Rogers Nelson, and its counsel, as of the time period when the UMG Agreement was recommended to the Court and approved. The Court appreciates the efforts of counsel to reach agreement regarding the documents to be produced and adopts the agreement of the parties. The Court will not require the disclosure of documents by Warner Bros. Records, Inc. and Universal

Music Group, Inc. beyond what has been agreed to. The Court will not require the deposition of members of the board, officers or employees of Warner Bros. Records, Inc. or of Universal Music Group, Inc.

The Court reaffirms its statement of relevant issues for the October 13, 2020 evidentiary hearing. It specifically finds that, if the parties believe a portion of the Advisor Agreement is dispositive or limits the liability of Charles Koppelman, CAK Entertainment, Inc., L. Londell McMillan, or NorthStar Enterprises Worldwide, Inc., the interpretation of the Advisor Agreement is a matter of law that should be addressed by motion before the evidentiary hearing.

The Court has reviewed the list of ten issues that NorthStar addresses in its Memorandum of Law in Support of Motion to Seek Review of the Court's Preliminary Ruling Concerning the Scope of the Issues to be Heard, filed June 5, 2020. The Court finds that the majority of the issues that NorthStar wishes to add attempt to turn the focus on what persons or entities other than the Advisors knew or did. The Court finds that the current motion to seek the return of the commissions paid focuses on the knowledge of the Advisors and the fiduciary duty of the Advisors to disclose information about any potential overlap between the Warner Bros. and UMG Agreements. It is not relevant to this motion to determine what information other parties had or whether they had a duty to investigate. The Court has already indicated the relevancy of, considering the other alternatives available to the Estate, whether it was reasonable and prudent for the Estate to rescind the agreement. Further, the Court has already indicated its willingness to consider what compensation should reasonably be paid to the Advisors, even if there is ultimately an order to return a portion of the commissions. The Court believes that these earlier preliminary rulings, as to what the Court will deem relevant, address several of the topics raised by NorthStar.

K.W.E.

NOTICE: A true and correct copy of this Order/Notice has been served by EFS upon the parties. Please be advised that orders/notices sent to attorneys are sent to the lead attorney only.