

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,

**SCHEDULING ORDER – MOTION FOR
COMMISSION REIMBURSEMENT**

Decedent.

The above entitled matter came on before the Court on March 26, 2020 by telephone conference. The Second Special Administrator, Peter Gleekel, appeared on behalf of the Estate. John J. Rosenberg appeared on behalf of Charles Koppelman and CAK Entertainment, Inc. Alan I. Silver appeared on behalf of L. Londell McMillan and NorthStar Enterprises Worldwide, Inc. L. Londell McMillan appeared personally. The purpose for the phone conference was to clarify the purpose of the evidentiary hearing set for April 28, 2020 and April 30, 2020; to determine whether that hearing should be continued or stricken from the calendar; and to address preliminary matters before a final hearing on the motion. The parties all subsequently submitted letter memoranda regarding the various issues. The parties all stipulated to strike the preliminary evidentiary hearing scheduled for the end of April, to schedule the motion for a final hearing, and to establish a scheduling order.

Now therefore, the Court makes the following:

ORDER

1. The preliminary evidentiary hearing set for April 28, 2020 and April 30, 2020 is hereby stricken from the calendar.
2. The Motion brought by the Second Special Administrator shall be scheduled for a final evidentiary hearing on November 2 and 3, 2020. Additional days shall be scheduled thereafter if necessary. The Court shall confer with the parties and shall determine an allocation of the time allowed for the hearing to assist the parties in scheduling witnesses.

3. Discovery shall be completed no later than August 15, 2020. Conference calls with the Court shall be scheduled for June 19, 2020, at 10:30 p.m. and on July 21, 2020 at 8:30 a.m. to address any discovery issues that need to be brought to the Court's attention. If the parties to this proceeding agree that one or both of these conferences may be stricken from the calendar, they shall notify Ms. Shirk.

4. Any pre-hearing motions to be brought by the parties shall be scheduled no later than September 18, 2020.

5. The Memorandum attached hereto is incorporated into this Order as addition findings and conclusions of law.

BY THE COURT:

Dated: April 20, 2020

Kevin W. Eide
Judge of District Court

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.

MEMORANDUM

Minnesota Statutes Section 524.3-721 provides:

**PROCEEDINGS FOR REVIEW OF EMPLOYMENT OF AGENTS AND
COMPENSATION OF PERSONAL REPRESENTATIVES AND EMPLOYEES
OF ESTATE.**

After notice to all interested persons or on petition of an interested person or on appropriate motion if administration is supervised, the propriety of employment of any person by a personal representative including any attorney, auditor, investment advisor or other specialized agent or assistant, the reasonableness of the compensation of any person so employed, or the reasonableness of the compensation determined by the personal representative for personal representative services, may be reviewed by the court. Any person who has received excessive compensation from an estate for services rendered may be ordered to make appropriate refunds.

The last sentence clearly directs a person who has received *excessive* compensation to, upon order of the court, refund the appropriate amount. This motion for refund is by the Second Special Administrator in an attempt to show that the entertainment advisors to the Estate received excessive compensation. The burden of proof would be by the preponderance of the evidence.

The JOBU matter is proceeding to trial on August 4, 2020, unless it is settled or continued. The Court hopes that a decision will be made in that case that will allow the parties in this proceeding to either settle this motion with respect to JOBU or make the presentation of the motion swift and straight forward.

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.

These are preliminary rulings to assist the parties in determining what discovery is necessary and to frame the issues for the evidentiary hearing. The parties may seek review of these rulings by motion no later than June 5, 2020.

The Court advises the parties that it will not be available to hear matters relating to this proceeding after June 19, 2020 and before July 20, 2020, and perhaps at other times before and after this time period.

K.W.E.