

**REDACTED**

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT

PROBATE DIVISION

Case Type: Special Administration

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In the Matter of:

Court File No. 10-PR-16-46

Estate of Prince Rogers Nelson,

Decedent,

and

Tyka Nelson,

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Petitioner.

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**BREMER TRUST'S RESPONSE TO  
OMARR BAKER'S OBJECTIONS TO  
BREMER TRUST'S ACCOUNTING  
THROUGH JANUARY 31, 2017**

Bremer Trust, the former Special Administrator of this Estate, submits this response to Omarr Baker's Objections to Bremer Trust's Accounting Through January 31, 2017 (the "Accounting Objections"). None of the arguments in the Accounting Objections shows that the accounting should not be approved. In essence, the Accounting Objections argue that there are unanswered questions about the accounting, but Bremer Trust has provided complete answers to every question that has been asked. Moreover, Mr. Baker's attorneys have chosen not to take advantage of the multiple opportunities that Bremer Trust and its attorneys have provided for Mr. Baker's attorneys to ask additional questions and request additional information.

The accounting should be approved, and the request for another evidentiary hearing in the Accounting Objections should be denied.

**I. Accusations That Bremer Trust Performed Poorly as Special Administrator Do Not Reflect Reality.**

The Accounting Objections take aim at Bremer Trust and wrongly fault its performance of its fiduciary duties as the former Special Administrator of this extraordinarily complicated Estate. *See* Accounting Objections at 1. As the Court has explicitly recognized on multiple

occasions, Bremer Trust admirably performed a very difficult job: “Bremer Trust . . . walked into personal and corporate mayhem where the Decedent’s personal and business affairs were in disarray, a criminal investigation was being undertaken, assets and records were voluminous and scattered, and numerous monetary and heirship claims were about to cascade upon them.” Order for Transition from Special Administrator to Personal Representative dated Jan. 19, 2017 at 2, ¶ 4.iii; see also Order Approving Fees and Costs and Expenses dated Oct. 28, 2016 at 5, ¶ 9 (“The unique and extraordinary nature of this probate proceeding is undeniable.”).

Moreover, as the Court has found, Bremer Trust’s work as Special Administrator fully complied with all applicable law and Court orders: “Bremer Trust has complied with all orders and decrees of the Court and with the provisions of law applicable to this Estate and to the Special Administrator.” Second Order Relating to the Transition from Special Administrator to Personal Representative dated Jan. 30, 2017 at 2, ¶ 11. In short, the Accounting Objections’ accusations about Bremer Trust’s performance are baseless and lend no support to the argument that the accounting through January 31, 2017 should not be approved.

Nor do the Accounting Objections’ assertions that “Bremer wanted out” and “began pushing aggressively” to do so support the objections to approving the accounting. In September 2016, Bremer Trust informed the Court that, although Bremer Trust was committed to serving its term as the Court-appointed Special Administrator, Bremer Trust would not be requesting an extension or seeking an appointment as the Personal Representative for the Estate. *See* Dec. 7, 2016 & Sep. 27, 2016 Letters to Judge Eide. As Bremer Trust told the Court and potential heirs, Bremer Trust would not have objected to the appointment of a new Special Administrator replacing Bremer prior to November 2, 2016. *See id.* In fact, Bremer Trust agreed to multiple extensions of its temporary appointment and served as Special Administrator of this complicated

Estate until another entity was ready to assume the responsibilities for this Estate—which was not until January 31, 2017.<sup>1</sup> *See* Order Extending Appointment of Special Administrator dated Oct. 25, 2016 (extending Bremer Trust’s appointment to January 2, 2017); Order Extending Appointment of Special Administrator dated Dec. 29, 2016 (extending Bremer Trust’s appointment from January 2, 2017 to January 12, 2017); Second Order Extending Appointment of Special Administrator dated Jan. 12, 2017 (extending Bremer Trust’s appointment from January 12, 2017 to January 31, 2017).

As Bremer Trust promised the Court last fall, Bremer Trust remained fully committed to its duties as Special Administrator and worked diligently to organize, preserve, and protect the tangible and intangible assets of the Estate during its service as Special Administrator. *See* Dec. 7, 2016 & Sep. 27, 2016 Letters to Judge Eide. Further, the cause for Bremer Trust’s desire to complete its service was not what the Accounting Objections suggest but instead what Bremer Trust told the Court last September: “we feel that we have reached a point where the heirs’ desired level of control over activities is hampering our ability to act in the best interest of the Estate.” *See* Dec. 7, 2016 & Sep. 27, 2016 Letters to Judge Eide. In sum, the Accounting Objections’ complaints about Bremer are unfounded and do not provide any support for not approving the accounting.

## **II. There Is No Reason for the Court to Hold Another Evidentiary Hearing About the Accounting.**

Once again, Mr. Baker’s attorneys request a so-called “formal evidentiary hearing before the Court.” But the Court already scheduled and held an evidentiary hearing on January 12, 2017.

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<sup>1</sup>This is despite the fact that potential heirs told the Court that they expected to have a successor Special Administrator or Personal Representative months before one was ultimately appointed.

In December 2016, the Court scheduled a hearing for January 12, 2017 on Bremer Trust’s Petition for an Order Approving Accounting, Distribution of Assets, and Discharge of Special Administrator. *See* Notice & Order of Hearing on Petition for Order Approving Accounting, Distribution of Assets, and Discharge of Special Administrator dated Dec. 19, 2016. Then on January 12, 2017, the Court held the hearing that the Court had previously scheduled. *See* Second Order Extending Appointment of Special Administrator dated Jan. 12, 2017 (“The above entitled matter came on before the Court on January 12, 2017, upon the Special Administrator’s motion for discharge and approval of its Inventory and Intermediate Accounting, and the parties motions for appointment of a personal representative.”); *see also* Order for Transition from Special Administrator to Personal Representative dated Jan. 19, 2017 at 2, ¶ 4.iii (referencing the January 12 hearing). During the January 12 hearing, evidence was introduced—i.e., testimony and documents were admitted into evidence. *See, e.g.*, Order for Transition from Special Administrator to Personal Representative dated Jan. 19, 2017 at 1 (referencing “the evidence introduced during the [January 12, 2017] hearing”); Second Order Relating to the Transition from Special Administrator to Personal Representative dated Jan. 30, 2017 at 1 (referencing “the evidence introduced during the [January 12, 2017] hearing”).

As the Court’s Orders following the January 12 hearing all indicate, “Appearances were noted on the record.” Second Order Extending Appointment of Special Administrator dated Jan. 12, 2017; Order for Transition from Special Administrator to Personal Representative dated Jan. 19, 2017; Second Order Relating to the Transition from Special Administrator to Personal Representative dated Jan. 30, 2017. Those appearances included multiple attorneys representing Mr. Baker (and Tyka Nelson): Steven Silton, Anthony (Van) Jones, Thomas Kane, and Jeff Kolodny. Jan. 12, 2017, Transcript of Proceedings at 8-9.

The Accounting Objections reference the Court's January 12 hearing yet bizarrely assert that "Bremer absconded without answering any questions of substance regarding its accounting." Accounting Objections at 2. Bremer Trust presented two witnesses at the January 12 hearing regarding the accounting and the inventory Bremer Trust had previously submitted: Deborah Fasen and Alison Hauck. *See* Jan. 12, 2017, Transcript of Proceedings, 20-101. One of Mr. Baker's attorneys, Mr. Silton, cross-examined both of Bremer Trust's witnesses. *Id.* at 51-68, 69-71, 91-98 (cross examination of Ms. Fasen); *id.* at 77-83 (cross examination of Ms. Hauck). The Court imposed no time limits on Mr. Silton's cross-examinations of Bremer Trust's witnesses. *See generally id.*

In addition, Bremer Trust had its entire team who worked on this Estate available for testimony at the January 12 hearing and offered their testimony if desired. Jan. 12, 2017, Transcript of Proceedings at 1 (referencing appearances by Marcia Jensen, Tim Murphy, Craig Ordal, Alison Hauck, Nicole Olmscheid, Jeff Rostad, and Deb Fasen); *see also id.* at 7-8 ("The Special Administrator is here in person as well. We have Marcia Jensen, Tim Murphy, Craig Ordal, Alison Hauck, Nicole Olmscheid and Jeff Rostad."<sup>2</sup>); *id.* at 49 ("First of all, Your Honor, I don't know what Mr. Silton will be questioning about, but I do want to alert the Court to the fact that we brought multiple individuals with specialization at Bremer Trust depending on the level of detail that Mr. Silton wishes to explore. So we do and can call other witnesses if necessary."). Despite Bremer Trust's offer, Mr. Silton did not seek to question any of these individuals at the January 12 hearing.

Accordingly, the Accounting Objections' request for a "formal, evidentiary hearing" focused "exclusively" on Bremer Trust's accounting is without basis. The Court already

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<sup>2</sup> Deborah Fasen appeared and testified telephonically with permission of the Court. *See id.* at 9.

conducted an evidentiary hearing on the accounting, and Mr. Baker's attorneys had a full opportunity to be heard and to question witnesses at the hearing.<sup>3</sup> In addition, to the extent that Mr. Baker's attorneys have now identified additional questions about the accounting that they wished they had asked during the January 12 hearing, these questions have already been answered and/or are easily answered as shown by the answers provided below.

**III. Mr. Baker's Attorneys Chose Not to Take Advantage of Numerous Prior Opportunities to Ask Questions and Seek Information About the Accounting.**

The Accounting Objections set forth several questions about the accounting provided by Bremer Trust. *See* Accounting Objections at 4. Yet Bremer Trust had invited attorneys for Mr. Baker and all potential heirs to ask any questions they had about the accounting before the January 12 hearing, at the January 12 hearing, and even after the January 12 hearing. Mr. Baker's attorneys simply never did so.

Indeed, as detailed above, Bremer Trust presented two witnesses and made its entire team who worked on this Estate available for testimony at the January 12 hearing. Jan. 12, 2017, Transcript of Proceedings at 1, 7-8, 49. Despite Bremer Trust's offer, Mr. Baker's attorneys did not seek to question any of these individuals at the January 12 hearing. Nor did Mr. Baker's attorneys ask many of the questions set forth in the Accounting Objections to either Ms. Fasen or Ms. Hauck. Bremer Trust cannot respond to questions it was not asked. Other questions set forth in the Accounting Objections were previously asked—and answered.

In sum, the purported “substantial confusion surrounding” Bremer Trust's accounting is no reason for the Court to withhold approval of the accounting, especially given Mr. Baker's

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<sup>3</sup> Mr. Baker's request for the Court to “put all of the present and past objections to a formal evidentiary hearing” makes no sense. Objections at 2; *see also id.* at 3 (requesting that the Court “put the past and present objection to Bremer's final accounts to a formal evidentiary hearing”); *id.* at 5 (same).

attorneys' failure to directly ask Bremer Trust questions about the accounting.<sup>4</sup> Mr. Baker's attorneys could have chosen a faster and less expensive way to obtain information than by filing the Accounting Objections with the Court, such as simply sending an e-mail or making a phone call. Nonetheless, Bremer Trust provides the answers to the questions posed in the Accounting Objections below.

**IV. Mr. Baker's Attorneys Questions About the Accounting Have Been and Are Easily Answered.**

*1. Estate Accounting for January 2017:*

- a. How did Bremer calculate the [REDACTED] listed as "Universal Music Group Deal"?*

At closing, the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- b. How did Bremer calculate the \$180,000.00 listed as "Compensation of Representatives"?*

Pursuant to Court order, Bremer Trust was paid \$90,000/month for nine months during which it served as Special Administrator—May 2016 through January 2017. *See* Order Approving Fees and Costs and Expenses dated Oct. 28, 2016 at 6-7. Bremer did not charge for the time it served as Special Administrator in April 2016. In January 2017, Bremer Trust was paid two months of fees for December 2016 and January 2017 since its appointment as Special Administrator was ending on January 31, 2017.

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<sup>4</sup> As one of Mr. Baker's attorneys admitted at the January 12 hearing, he does not understand estate administration law. *See* Jan. 12 Trans. at 35 ("The statute, I would say, Your Honor -- and this is outside my expertise. So before there was a record established on interpretation of the IRS revenue code, frankly, I would want to be careful about that conclusion, Your Honor. I don't -- the answer, to be totally honest, I don't know.").

- c. *Why are there numerous amended returns on the Estate accounting and how did Bremer calculate the seemingly large payments? Related to this, was there a request for extension of time to file and pay federal and Minnesota taxes?*

An extension of time was requested, and the maximum time allowed for filing was used. As has been previously disclosed, when Bremer Trust was appointed, Mr. Nelson's financial records were in disarray. At his death, his income tax returns for the years 2009-2012 were being audited by the IRS. Bremer Trust worked closely with Mr. Nelson's tax counsel at Fox Rothschild and his accountants at [REDACTED] to negotiate and finalize settlement of these audits. Bremer Trust filed amended returns for the years 2009-2011 after settlement with the IRS was reached. Bremer Trust also filed Mr. Nelson's relevant amended state income tax returns.

- d. *How did Bremer calculate the \$5,500,000.00 listed as "Principal"? Was that required to be paid? Why that was paid down with cash that could have been used to pay estate tax or other expenses?*

At Mr. Nelson's death, he had minimal liquid assets in his name but had significant cash in his business entities. When Bremer Trust assumed the role of Special Administrator, Bremer Trust did not have enough information regarding the potential liabilities of each of Mr. Nelson's business entities to make a determination that a distribution of funds to the Estate was permitted. For this reason, Bremer Trust structured loans in the amount of [REDACTED] to the Estate and [REDACTED] to the Estate. There is no principal calculation required; it is the amount that was advanced. The Estate paid off the loans after receipt of funds from monetization deals. From a global view, because the Estate includes Mr. Nelson's business entities, the net cash paid out is zero; the funds were simply moved from entities owned and controlled by Mr. Nelson to his Estate.

*e. What has Bremer done to market the real estate listed?*

The Estate contracted with realtor Steve Norton of Norton Realty to market the real estate located in Minnesota. The hiring of a realtor is consistent with Bremer's practice for selling real estate. Mr. Norton, an experienced realtor in this area of the metro, walked the properties, readied the properties for sale, and listed the properties on the multilisting service ("MLS").

In particular, Norton Realty conducted a market analysis for the listed properties and reviewed that information with Alison Hauck. They decided to list the three vacant properties as to-be-built homes rather than vacant land because vacant land does not receive as much attention from buyers because they do not know how much it would cost to build a new home. That barrier is removed by providing an option, with pictures, of what could be built on the property and how much that home would cost. Further, the to-be-built option can still be sold as vacant land, which is what happened with two of the properties (9411 Kiowa and 2169 Red Fox).

Mr. Norton and Ms. Hauck selected a listing price for each property based on the market analyses and appraisals. Professional photographs of each property, including aerial photos of the Kiowa properties, were taken and used for marketing. The properties were listed Multiple Listing Service (MLS), and MLS information was also placed on approximately 80 different property search websites like Zillow, Trulia, and Realtor.com. Signs were placed on each property. Facebook and Instagram posts were used to market the properties, and "boosted" (i.e., paid ads) posts were also used on Facebook and Instagram to reach the general public. An open house was conducted at 8016 Dakota (the only single family house), and that was advertised through the MLS and various house hunting websites. A great deal of press about the various properties was also generated; articles were published in the LA Times, Realtor.com, Star Tribune, MSP Business Journal, City Pages, Forbes.com, and other sites.

[Redacted text block]

2. *Paisley Park Enterprises, Inc. (Exhibit 1):*

a. [Redacted text block]

[Redacted text block]

3. *NPG Music Publishing, LLC (Exhibit 2):*

a. [Redacted text block]

[Redacted text block]

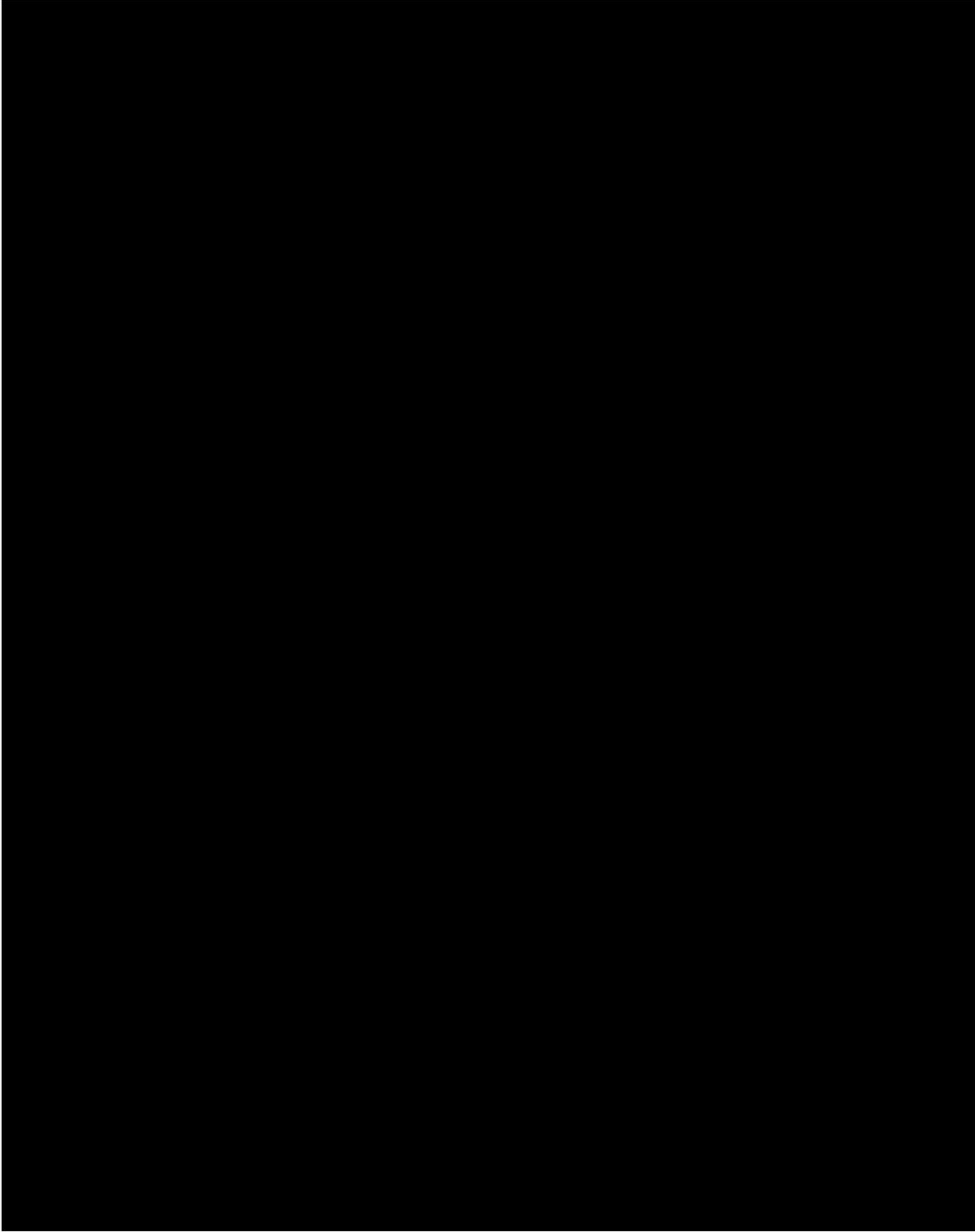
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[REDACTED]

*b.* [REDACTED]

[REDACTED]

[REDACTED]





**Conclusion**

For the reasons set forth above and in prior briefing, and based on the evidence introduced at the January 12, 2017 hearing, Bremer Trust requests that its accounting through January 31, 2017 be approved by the Court.

Dated: March 17, 2017

s/ Laura E. Halferty  
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