

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In Re:

Case Type: Special Administration
Court File No: 10-PR-16-46
Judge: Kevin W. EideEstate of Prince Rogers Nelson,
Decedent.

REDACTED
**DECLARATION OF L. LONDELL
MCMILLAN IN RESPONSE TO
COMERICA'S MOTION TO APPROVE
RESCISSION OF EXCLUSIVE
DISTRIBUTION AND
LICENSE AGREEMENT**

L. Londell McMillan hereby states and declares as follows:

1. I have been a business and entertainment law lawyer and recording industry representative for over twenty years. As this Court is aware, I was retained by and acted as an entertainment advisor to the Special Administrator, Bremer Trust ("Bremer") in connection with the Estate of Prince Rogers Nelson ("Estate"). After Bremer's term as Special Administrator ended, I was nominated by four of the six heirs to serve as their business advisor. I currently am active in such a role to Sharon, Norrine and John Nelson. I have personal knowledge of and am competent to testify to the facts stated here.

2. For more than a decade, I represented Prince Rogers Nelson ("Prince") as his lead counsel and then later as his business manager and partner. During our relationship, Prince and I became long-term friends. During my tenure with Prince, I handled some of Prince's most personal and private matters.

3. Since Comerica assumed its role as personal representative of the Estate in early February of 2017, Warner Brothers Records ("WBR") has sought to exploit Comerica's lack of entertainment knowledge and experience, by over reaching for rights it does not possess, and by

misleading the personal representative by wrongfully expanding the language of its 2014 Settlement Agreement with Prince.

4. On April 16, 2014, Prince entered into the WBR Settlement Agreement, which is a license agreement that [REDACTED]

[REDACTED] This Agreement was intended to be a resolution of Prince's prior and well-known disputes with WBR under those parties' prior agreements. A true and correct copy of the WBR Settlement Agreement is submitted herewith as Exhibit A, in redacted form.

5. I have reviewed the WBR Settlement Agreement, and I disagree with WBR's assertion that [REDACTED]

[REDACTED]

[REDACTED] Based upon my almost 30 years of entertainment industry experience, it is my opinion and belief that, under the WBR Settlement Agreement, [REDACTED]

[REDACTED]

6. It is also my opinion that WBR is aware that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. As the Court is aware, the Estate entered into an exclusive licensing agreement with Universal Music Group (“UMG”) on or about January 31, 2017 (“UMG contract”). The terms of the UMG contract, in summary, gave UMG a license to distribute certain works of Prince [REDACTED]

[REDACTED]

[REDACTED] I maintain now, as I have at all times, that the terms that were represented to UMG in the UMG contract are contractually valid and enforceable.

8. I was one of the primary persons involved in negotiating the UMG contract. Due both to my long professional and personal relationship with Prince, even before I was an advisor to the Estate, I was contacted by various recording companies regarding entertainment deals related to the Estate. Almost immediately after Prince’s death, I was contacted by Michele Anthony (“Anthony”), Executive Vice President of UMG. Anthony expressed her condolences to me, as we had both worked jointly with Prince in the past. Anthony encouraged me to reach out to help the Estate, and she in fact agreed to serve as an unofficial supportive advisor to help the Estate. Attached hereto as Exhibit B is a true and correct copy of a letter from Anthony to Laura Krishnan at Stinson Leonard Street, LLP (“Stinson”).

9. As co-advisors to the Estate, Charles Koppelman (“Koppelman”) and I reached out to multiple recording companies to request proposals for the administration and distribution of all categories of Prince’s works, including UMG, BMG, and WBR.

10. I had multiple meetings in New York with Anthony acting on behalf of UMG. As part of those meetings, Anthony inquired about the rights of WBR and other recording companies to Prince’s recordings. I also communicated with Mark Cimino (“Cimino”), a current senior executive at UMG, who had previously been the head of business and legal affairs at WBR. Cimino had actually signed the 2014 WBR Settlement Agreement on behalf of WBR, and he indicated he was familiar with its terms, as well as the history of disputes and dealings between Prince and WBR. Anthony also informed me that she had discussions with Cimino regarding WBR rights, and she advised me regarding her understanding of the terms of the WBR Settlement Agreement. It is my understanding that Cimino did not disclose all of the details of the WBR 2014 Settlement Agreement, but he enthusiastically supported a deal between UMG and the Estate. Anthony affirmed UMG’s desire to obtain rights to Prince’s sound records and indicated her belief that the Estate and UMG could reach a deal regarding Prince’s vast sound recordings, past and present.

11. At my request, counsel for the Special Administrator provided me with a copy of the WBR Settlement Agreement. After I reviewed it, I also discussed it with Stinson, the Estate’s lawyers, in order to better understand its terms. Based on my review of the WBR Settlement Agreement, the 2014 press release regarding the WBR Settlement Agreement, and the input received from Stinson, it was and is my belief that [REDACTED]

[REDACTED]

12. While I was involved in negotiations with UMG, Koppelman and I also requested proposals from other recording companies for the release of Prince's recordings—including WBR. One of our first official acts as co-advisors to the Estate was to meet with WBR and request such a proposal. At no time did WBR ever indicate that the Estate would be prohibited from entering into an agreement with another recording company for [REDACTED]

13. As co-advisors, Koppelman and I divided the task of investigating lucrative recording deals for the Estate. We respectively met with various senior executives of recording companies who were also interested in Prince's music catalog. Due to my relationship with Prince, and Prince's strained relationship with WBR, Koppelman handled most of the contacts with WBR.

14. In addition to meeting with Anthony, I also met with Jeff Harleston, the General Counsel and Executive Vice President of Business and Legal at UMG. Via various meetings and conference calls, we negotiated the scope of the UMG contract.

15. Throughout my dealings with UMG, I repeatedly and consistently cautioned [REDACTED]
[REDACTED]
[REDACTED] In fact, the uncertainty [REDACTED] is what led me to recommend that the parties [REDACTED]
[REDACTED]
[REDACTED]

16. Despite my cautions about [REDACTED] [REDACTED] UMG continued to push enthusiastically for a deal. After the Estate and UMG entered into a publishing deal, UMG pushed even harder to reach a recording deal. UMG was aware that Koppelman and I were soliciting proposals from other recording companies.

17. In August 2016, I met with Anthony and Harleston, along with Lucian Grange, Chief Executive Officer and Chairman of UMG, and UMG executives Monte Lipman and Boyd Muir, in Los Angeles. During this meeting, we discussed several proposals, and after the meeting, we continued negotiations via email and phone conferences. Finally, on September 8, 2016, UMG provided the Estate with an official proposal for a recording deal.

18. Notably, the UMG contract was extensively reviewed by numerous lawyers, including entertainment lawyers acting on behalf of the Estate at Stinson and Meister, Seelig & Fein (“Meister”). In fact, Meister was hired for the specific purpose of finalizing the UMG contract. None of these lawyers raised any concerns or objection to the UMG contract. To the contrary, counsel for the Special Administrator, Stinson, vigorously sought (and obtained) approval of the UMG contract from the Court.

19. The UMG short-form agreement, which allowed the Estate to proceed with the UMG contract, was approved by the Court on September 30, 2016. The official UMG contract was approved by the Court on January 31, 2017.

20. Consistent with WBR’s repeated attempts to take advantage of Comerica during the transition period, WBR confronted Comerica with allegations that the UMG contract interfered with WBR’s rights immediately after the UMG contract was announced to the public. WBR’s overreaching is evidenced by the fact that it initially argued that the UMG contract conflicted with the WBR Settlement Agreement in multiple ways. First, it argued that [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] Second, [REDACTED]

[REDACTED] WBR subsequently abandoned its claim to the [REDACTED] because the claim was unfounded.

21. WBR’s aggressive behavior with respect to UMG, Comerica, and the Estate is not surprising when considered in light of WBR’s contentious history with Prince. Throughout the course of their relationship, which goes back to the late 1970s, WBR consistently and repeatedly attempted to take advantage of Prince and control his artistic expression. Specifically, WBR tried to control when Prince released his music, and how often. Prince objected, expressing his desire to release his music on his own terms, as it came to him.

22. Prince entered into a major extension of his recording deal with WBR in August 1992. The deal as proposed by WBR in theory offered Prince [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] The contract guaranteed Prince [REDACTED]
[REDACTED] This agreement left Prince [REDACTED]
[REDACTED]
[REDACTED]

23. Prince began to fight back against WBR, refusing to take its direction and not delivering his best work. He appeared in public with the word “SLAVE” painted on his face, to

symbolize his feelings that WBR treated him like its slave under a contract WBR owned. Later, Prince changed his name to an unpronounceable symbol, and referred to himself as “the Artist Formerly Known as Prince.”

24. During this period, in 1993, I was hired by Prince. Prince had previously hired many of the top lawyers in the music industry to extricate him from his WBR contracts. After much work, litigation, and negotiations, Prince was released from his contracts with WBR in 1996 on terms he desired. However, even after Prince was relieved of his contracts with WBR, Prince and WBR continued to have legal disputes over [REDACTED]

[REDACTED] As a result, in an effort [REDACTED]
[REDACTED]

Prince entered into the WBR Settlement Agreement with WBR in 2014. Based on its terms, the WBR Settlement Agreement was intended to be a settlement of disputes [REDACTED]

[REDACTED]
[REDACTED]

[REDACTED] See Ex. A (WBR Settlement Agreement April 2016, 2014 cover letter). Notwithstanding the foregoing, the relationship was not a good one.

25. Comerica’s brief suggests that Comerica sought to be inclusive and work together to resolve the issues raised by WBR and, ultimately, UMG. This is misleading and disingenuous. Despite the fact that various representatives on behalf of Bremer and I were the ones who dealt directly with UMG in negotiating the very details of the UMG contract for over six months, I was purposefully excluded from assisting Comerica and knowing information

regarding Comerica's purported attempts to resolve the dispute between WBR and UMG after WBR contacted Comerica in February 2017.

26. It is my understanding that Comerica failed to seek meaningful input and advice from Bremer to evaluate WBR's and UMG's claims about contract conflict. I had one telephone conversation with Comerica's counsel late February or early March in late February 2017. My initial advice to Comerica during this call mirrored that of Bremer Trust's May 31, 2017 letter to the Court, which was that Comerica should seek Court authority to show the contractual provisions of the WBR Settlement Agreement to UMG to further advance the conversation, bring clarity, and better assuage the concerns of UMG. Comerica refused to follow my advice.

27. I also had a short meeting with Comerica at Fredrikson & Byron on April 12, 2017, but Comerica's counsel only asked me a few questions, and then adjourned the meeting after about twenty minutes. Again, I stated Comerica should seek Court direction and approval. Comerica's counsel never asked me for my analysis as to how the Estate should proceed, and never sought my assistance in negotiating a resolution. Following that meeting, I offered my assistance in working directly with UMG, or alternatively meeting with Troy Carter, or whoever else Comerica designated in order to assist "behind the scenes" in resolving the issues in dispute. Attached hereto as Exhibit C is a true and correct copy of an April 18, 2017 letter from Alan Silver to Comerica's counsel, Joseph Cassioppi. Attached hereto as Exhibit D is a letter dated April 26, 2017, in which Comerica rejected my offer of assistance. My counsel responded, once again stating that that I was willing to contribute in any way I could to resolve the issues. Attached hereto as Exhibit E is a true and correct copy of a letter from Alan Silver to Joseph Cassioppi dated May 2, 2017. Comerica did not respond to this letter.

28. For much of the time that it purportedly tried to resolve the conflict between WBR and UMG, Comerica had no entertainment business expert, no prior entertainment expert, no lawyer experienced in music litigation, and insufficient basis for interpreting the contractual agreements and customary terms in the entertainment industry. While Comerica may have consulted with transactional counsel who were previously engaged by the Estate, none of them had the relationships and background I had with UMG or WBR. I tried to relay to Comerica that time is critical to entertainment industry agreements, and Comerica needed to move for Court intervention without delay. Comerica stood still and never asked for Court intervention on a deal

[REDACTED]

29. In the music industry, recording companies occasionally dispute who owns the right to various recordings and other music rights, which may lead to threatened litigation. It is also customary for those parties to then work together through counsel to resolve their disputes between themselves. WBR's claims are not unexpected or unusual. However, it is unusual under industry custom that UMG seeks to walk away from the UMG contract without even consulting the WBR Settlement Agreement or defending the UMG contract. It is extremely unusual that Comerica is not defending and seeking to enforce its UMG contract

[REDACTED]

[REDACTED]

[REDACTED]

30. I have made no misrepresentations to Comerica, UMG, or any other party in connection with this matter. I believed, and continue to believe, that there is no conflict between the UMG contract and the WBR Settlement Agreement. Further, at no time in negotiating and consummating the UMG contract did I work alone. Bremer's counsel, Bremer's specially retained entertainment counsel, and heirs' counsel all participated and reviewed and billed

substantially for the months of work done in connection with the UMG contract. Counsel for the Estate and heirs have also concluded that there is no conflict in the UMG and WBR respective agreements. Attached hereto as Exhibit F is a true and correct copy of an email from Ken Abdo, former counsel for heirs Sharon Nelson, Norrine Nelson, and John Nelson, to counsel for various parties in this matter, in which he states that [REDACTED]

31. Based on my professional experience as a business advisor in the entertainment industry, it is my belief that proceeding with the UMG contract is in the best interest of the Estate. UMG is a global corporation and the largest record company in the world. It is widely considered the leader in music based entertainment for music artists and their estates including The Beatles, Justin Bieber, Andrea Bocelli, The Beach Boys, Beck, Drake, Eminem, Marvin Gaye, Ariana Grande, Elton John, Lady Gaga, Kendrick Lamar, Lorde, Bob Marley, Nirvana, Luciano Pavarotti, Katy Perry, Queen, The Rolling Stones, Frank Sinatra, Sam Smith, U2, The Weeknd, Kanye West, Amy Winehouse, and Stevie Wonder, among many others. UMG also demonstrated the most interest in the Prince music catalog and willingness to make a substantial commitment and lucrative deal during the early period after Prince's death on business and creative terms that respected Prince's legacy. Executives at UMG have worked with Prince in the past. For example, Anthony, currently an Executive Vice President at UMG, has a relationship with Prince spanning almost 25 years, where she served as an advisor to Prince throughout the 1990s, worked as a close business advisor from 2006 to 2008 and worked with Prince on numerous projects including the studio albums *Musicology* in 2004 and *Planet Earth* in 2007, as well as the book "21 Nights at the O2."

32. UMG is also well known to have a very sophisticated anti-piracy and copyright protection on a global basis and have evinced consistent dedication in enforcing artists' rights and intellectual property rights. This is very important when making a significant agreement for the rights for the Prince catalog. These considerations are all important beyond the fact that UMG offered [REDACTED] at the time the agreements were presented to the Court for consideration. UMG put significant time and effort into making the deal with the Prince Estate. Based on the lack of commercial exploitation by Prince, this was the best deal to make at the time, by far. Comerica should have better evaluated the marketplace and the opportunity loss associated with recommending a rescission of the UMG deal. To rescind this landmark UMG deal would [REDACTED] as the enforcement of the UMG agreement in in the best interest of the Estate.

33. It is my belief, based on my professional experience as a business advisor in the entertainment industry, that proceeding with the UMG contract is in the best interest of the Estate.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Signed on June 6, 2017 in the State of New York, County of New York.


L. Londell McMillan

EXHIBIT A

FILED UNDER SEAL

