

REDACTED

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In Re: Estate of Prince Rogers Nelson,

Decedent.

Court File No. 10-PR-16-46

**VERIFIED PETITION FOR
TEMPORARY RESTRAINING
ORDER, INJUNCTIVE RELIEF,
MANDATORY DISCLOSURE,
AND EMERGENCY HEARING**

Aspiro AB, WiMP Music AS and Project Panther Ltd. (collectively, the "Petitioners"), hereby state the following in support of their Verified Petition for Temporary Restraining Order, Injunctive Relief, Mandatory Disclosure and Emergency Hearing pursuant to Minnesota Probate Code Section 524.3-607 and Minnesota Rule of Civil Procedure 65:¹

1. Petitioners are parties to agreements with the Decedent and entities owned or controlled by him prior to his death, and are interested parties in the estate of the Decedent (the "Estate") because the Estate holds and controls certain musical assets (the "Musical Assets") to which Petitioners possess contractual and other rights. Specifically, Petitioners were granted certain digital streaming rights in connection with the Musical Assets by virtue of numerous written and oral agreements and a substantial course of dealing between the Decedent and/or his entities, including NPG Records, Inc. ("NPG Records") and NPG Music Publishing, LLC ("NPG Publishing," and together with NPG Records, the "NPG Entities"), and Petitioners. Accordingly,

¹ Concurrently with the filing of the instant Petition, Petitioners also are submitting to the Court a Memorandum of Law in support of the Petition as well as an Affidavit of Rodney J. Mason for purposes of transmitting the documents referenced herein.

Petitioners are interested persons with the meaning of Section 524.1 of the Minnesota Probate Code.

2. Petitioners bring this Petition in order to address the Estate's seeming total disregard for Petitioners' rights in the Estate, and its abject failure to provide relevant facts to Petitioners concerning those rights despite numerous requests over the past week.

3. Pursuant to the Court's Order for Transition from Special Administrator to Personal Representative, dated January 20, 2017, Comerica Bank & Trust, N.A. (the "Personal Representative" or "Comerica") was appointed as Personal Representative of the Estate as of February 1, 2017. Prior to Comerica's appointment, Bremer Trust, N.A. (the "Former Special Administrator") served as special administrator of the Estate from April 27, 2016 until January 31, 2017. Pursuant to a Common Interest and Information Sharing Agreement between the Former Special Administrator and Comerica, as approved and adopted by the Court, the Personal Representative has access to all Estate information maintained by the Former Special Administrator before Comerica took over responsibility for the Estate, inclusive of all privileged or confidential information possessed by the Former Special Administrator during its term.

4. As the Court is aware, a Petition was filed by several entities and affiliated parties on November 11, 2016 seeking Allowance of Claim and Additional Relief concerning, among other things, the Musical Assets (the "November 2016 Petition"). The November 2016 Petition outlined the nature of the rights of Petitioners in the Musical Assets and, accordingly, their interest in the Estate.

5. The November 2016 Petition highlighted, among other things, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. Shortly after the parties signed the Equity Term Sheet, the Decedent delivered one new and previously unreleased album for streaming on the TIDAL service, but did not deliver a second prior to his death. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10. The November 2016 Petition centered on the same rights of which Petitioners notified the Former Special Administrator almost six months before filing the November 2016 Petition. More specifically, Petitioners wrote to the Former Special Administrator on May 27, 2016 (the "May 27th Letter") and advised it, among other things, that, prior to his death, the Decedent and the NPG Entities granted to TIDAL streaming rights to the Musical Assets.

11. Following the Former Special Administrator's Objections to the November 2016 Petition, a hearing before this Court on December 8, 2016, and post-hearing briefing submitted by Petitioners and the Former Special Administrator on January 6, 2017, on January 31, 2017, the Court entered Findings of Fact, Conclusions of Law, Order & Memorandum on the November 2016 Petition (the "Petition Order"). The Petition Order largely granted the relief

[REDACTED]

sought in the November 2016 Petition, finding that the May 27th Letter was sufficient to put the Former Special Administrator on notice of Petitioners' claimed contractual relationship with the Decedent and the NPG Entities and, therefore, finding that Petitioners had adequately stated and timely submitted a claim against the Estate. The Petition Order further found that "the record indicates Decedent (or the NPG Entities) granted [Petitioners] some rights with respect to exploitation of some of the Estate's musical assets." (emphasis in original). Accordingly, the Former Special Administrator, and by extension, Comerica, have been on notice of Petitioners' interest in the Estate since at least May 27, 2016 [REDACTED] [REDACTED] – since the date the November 2016 Petition was filed, namely November 11, 2016. While the Petition Order denied the request for Additional Relief (as defined in the November 2016 Petition), the Petition Order made clear that the merits of the Petition would be decided by the Court (or the court in the parties' federal copyright lawsuit) at a later time after the benefit of discovery.

12. Despite the rights granted to Petitioners [REDACTED] the findings of the Petition Order [REDACTED] recent media reports suggest that the Personal Representative, or its predecessor the Former Special Administrator, has entered into or is entering into business arrangements with digital streaming services other than TIDAL in connection with the Musical Assets, which may impair Petitioners' rights.

13. By way of example, on January 30, 2017, Billboard.com published an article entitled "Purple Spotify Billboards Suggest that Prince's Music Will Be Available on Major Streaming Service by Grammy Night" (the "Billboard Article"). The Billboard Article discusses a series of purple-colored advertisements bearing the Spotify logo which appeared beginning on

[REDACTED]
[REDACTED]
[REDACTED] No response to this e-mail was received.

17. Petitioners followed up by letter dated February 1, 2017 to counsel for the Personal Representative, requesting confirmation that the Estate had not entered into any agreements with music streaming services or undertaken any action [REDACTED]
[REDACTED] By letter dated February 2, 2017, counsel for the Personal Representative refused to provide Petitioners with the requested confirmation, citing the Court's denial of the request for Additional Relief. Counsel for Petitioners followed up with an email the same day, noting that the Petitioners were simply seeking to confirm whether the Estate had or was about to breach an agreement with Petitioners. Counsel for the Personal Representative again stonewalled Petitioners, referring back to their February 2, 2017 letter.

18. This refusal to provide any meaningful information concerning rights to which this Court already has ruled the Petitioners may pursue and seek discovery on is consistent with the complete lack of transparency with which the Former Special Administrator conducted itself in the face of similar and repeated requests by Petitioners for basic information, and is in spite of the Personal Representative's fiduciary obligations to the Estate and its creditors. Indeed, this continued stonewalling has unnecessarily subjected the Estate to litigation and expense.

19. As set forth herein, any agreement by the Estate providing a digital streaming service with [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Either way, Petitioners would be stripped of the benefit of the bargain they struck with the Decedent – namely, to not have his name and/or likeness used to “promote, advertise or market” a direct competitor of TIDAL.

20. Unless immediate, temporary and permanent injunctive relief are granted, Petitioners will be irreparably harmed because [REDACTED]

[REDACTED]

[REDACTED] will be irreversibly impinged upon should the Personal Representative be permitted to go forward with any digital streaming deals that, for example, allow the competing service to advertise that the Decedent’s works are now available on their service.

21. Petitioners are without an adequate remedy at law due to the unique rights at issue and because there is a substantial risk that the Personal Representative will violate Petitioners’ rights before the merits of the November 2016 Petition have been fully adjudicated. Indeed, the relief requested in this Petition is of the utmost urgency as there is a likelihood that the Musical Assets will be offered for digital streaming on sites other than TIDAL on or before February 12, 2017 – the date of the Grammy Awards at which, it is believed, the Decedent rightfully will be honored – [REDACTED]

[REDACTED]

22. Petitioners also have demonstrated a likelihood of success on their claims against the Estate as set forth in the November 2016 Petition and herein [REDACTED]. Further, the equities strongly favor Petitioners as the Personal Representative appears to be attempting to deprive Petitioners of their rights [REDACTED] without cause or justification, particularly as Petitioners have advanced \$3 million to Decedent and the Estate, virtually all of which remains unrecouped.

23. Further, Petitioners have attempted on multiple occasions over the past week to confirm [REDACTED] but have been met with a refusal to even discuss the matter. This stonewalling has only served to heighten Petitioners' concerns that the Estate has violated or will violate [REDACTED] as a simple confirmation that the Estate had not done so, and would not do so, would have been easy for the Personal Representative to provide if true.

24. Petitioners respectfully request that the Court set, pursuant to Minnesota Probate Code Section 524.3-607 and Minnesota Rule of Civil Procedure 65, an emergency hearing on the instant Petition for February 8, 2017, the date on which the Court has scheduled a hearing on the Petition of Phaedra Ellis-Lamkins, at which time Petitioners will seek an order: (i) temporarily and permanently enjoining the Personal Representative from entering into any agreements with digital streaming services other than TIDAL which convey to such digital streaming services digital streaming rights to the Decedent's next new album during the Exclusivity Period; (ii) temporarily and permanently enjoining the Personal Representative from entering into any agreements with digital streaming services other than TIDAL which convey to such digital streaming services the right to use the Decedent's name and/or likeness to promote, advertise or market the digital streaming service; (iii) to the extent the Estate already is a party to an

agreement with a digital streaming service other than TIDAL, requiring the Personal Representative to ensure that such digital streaming service does not violate the Exclusivity Restriction or the Exclusivity Period with respect to the Decedent's next new album; and (iv) requiring the Personal Representative to immediately provide information to Petitioners which is limited to the portion of any agreement between the Estate and a digital streaming service other than TIDAL which concerns the Exclusivity Restriction and the Exclusivity Period.

25. I declare under the penalties for perjury that this Petition has been examined by me and that its contents are true, accurate, and complete to the best of my information, knowledge, and belief.

Dated: February 6, 2017

By: 
Lior Tibon

PROJECT PANTHER LTD.

ASPIRO AB (for itself and on
behalf of WiMP Music AS)

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