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June 15, 2020

VIA ELECTRONIC FILING

The Honorable Kevin W. Eide
Carver County Justice Center
604 East 4th Street
Chaska, MN 55318

Re: **In re The Estate of Prince Rogers Nelson: Court File No. 10-PR-16-46**

Dear Judge Eide:

On behalf of Warner Records Inc., formerly known as Warner Bros. Records Inc. (“WBR”), I write in response to the June 12, 2020 sur-reply letter (“sur-reply”) filed by CAK Entertainment, Inc. (“CAK”). The sur-reply is procedurally improper and substantively incorrect.

At the outset, I must make clear that WBR categorically rejects CAK’s unfounded accusation that WBR “attempted to affirmatively mislead the Court.” WBR respects its duty of candor to this Court, and in all of its submissions, including this one, has accurately set forth the facts and legal arguments that support WBR’s motion to quash.

The sur-reply is procedurally improper and should be rejected on that basis alone. The Court’s May 29, 2020 Order for Submissions Regarding Motions to Quash made clear that CAK’s complete response to WBR’s motion to quash was due on or before June 5, 2020. WBR’s reply was due on or before June 10, 2020. No other submissions, including sur-replies, were permitted; instead, WBR’s motion was to be taken “under advisement based upon *the written record as of June 10, 2020.*” (May 29, 2020 Order at 1 (emphasis added).) The untimely sur-reply, filed without permission from this Court, should be disregarded. See *Townhomes of Kensington Condo. Ass’n v. Am. Family Mut. Ins. Co.*, 2014 Minn. Dist. LEXIS 11, at *11 (Minn. Dist. Ct. Oct. 12, 2014) (rejecting argument raised in sur-reply as procedurally improper); see also *Rupp v. Thompson*, 2004 Minn. Dist. LEXIS 16, at *2 (Minn. Dist. Ct. Mar. 17, 2004) (requiring litigant to obtain permission from the court before filing a sur-reply).¹

Substantively, the sur-reply grossly misrepresents the parties’ meet-and-confer discussions. CAK misrepresents both that I stated “there is a Len Blavatnik WMG email address” and that I requested that CAK forgo raising certain arguments in its response

¹ The procedurally improper sur-reply is particularly egregious because I advised counsel for CAK, *in advance of the deadline for CAK’s response brief*, that any arguments had to be included in its responsive submission and that WBR would stipulate to an extension if CAK needed additional time. I also advised CAK that the Court’s Order did not permit sur-replies and specifically stated that no oral argument would be held.

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memorandum, purportedly because WBR continued to consider the production of Mr. Blavatnik's emails. (Sur-reply at 2.) During our final meet-and-confer phone call, I explicitly and unequivocally advised counsel for CAK that (1) WBR was not making any representation regarding the existence or nonexistence of any particular email addresses; and (2) WBR could not and would not agree to include Mr. Blavatnik as a custodian in its email search.

As I further advised counsel for CAK during our meet-and-confer discussions, the reason that WBR objects to searching Mr. Blavatnik's emails is because WBR does not have possession, custody or control of those emails, whether held by WBR's indirect parent Warner Music Group Corp. ("WMG") or WMG's indirect parent, Access Industries, LLC ("Access"). Mr. Blavatnik is neither an officer nor an employee of WBR, and subpoenas addressed to WBR do not and cannot extend to communications of Mr. Blavatnik, either in his capacity as Vice Chairman of the Board of Directors of WMG or in his capacity as founder and Chairman of Access. Accordingly, there is no legal or practical basis to require that Mr. Blavatnik be included as a "custodian" in WBR's email search.

CAK also criticizes WBR's purported failure to advise the Court of CAK's "offer" to subpoena Access. Of course, WBR was under no obligation to address an issue not raised by CAK. In any event, I had previously advised CAK that WBR rejected the issuance of any further subpoenas as untimely pursuant to this Court's May 7, 2020 Order. (May 7, 2020 Order at 1 ("All additional subpoenas, document requests and deposition notices shall be served [by] May 8, 2020.").)

Further, the sur-reply should be disregarded because it does nothing to establish the relevance of Mr. Blavatnik's emails (if any) to the limited issues to be decided at the October evidentiary hearing. As described in the sur-reply, any meetings between Mr. Blavatnik and CAK or Northstar would have related to the Estate's rights in certain "Vault Recordings"—rights that WBR did not already possess—rather than to the dispute that led to the rescission of the January 31, 2017 UMG Agreement. And as to *that* dispute, the sur-reply provides no reason to believe that any emails that Mr. Blavatnik might have exchanged with UMG—the sole target of the parties' agreed upon search—could be relevant to the two issues to be addressed at the October evidentiary hearing. Mr. Blavatnik's emails with UMG (if any) would not inform whether the Estate had concerns regarding the overlap between the WBR Agreement and the UMG Agreement, nor would such emails inform whether CAK and Northstar were aware of the potential overlap.

Finally, CAK's request for Mr. Blavatnik's emails with UMG should be denied as moot now that UMG has agreed to search for communications between selected UMG personnel and Mr. Blavatnik in response to the subpoena that CAK issued to UMG. There is no reason to burden multiple third parties with a request that will presumably be satisfied by any one of them.

For all of these reasons, the Court should reject the sur-reply, deny the relief requested therein, and issue an order quashing the subpoenas issued to WBR, except as specifically agreed to by the parties.

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Respectfully,

/s/ Eric A.O. Ruzicka

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