

STATE OF MINNESOTA  
COUNTY OF CARVER

DISTRICT COURT  
PROBATE DIVISION  
FIRST JUDICIAL DISTRICT

In Re:

Case Type: Supervised Administration  
Court File No. 10-PR-16-46  
Judge: Kevin W. Eide

Estate of Prince Rogers Nelson,  
Decedent.

**LOMMEN ABDO, P.A.'S  
MEMORANDUM IN OPPOSITION TO  
PERSONAL REPRESENTATIVE'S  
MOTION FOR APPROVAL OF  
CONSULTANT PAYMENTS**

**INTRODUCTION**

This Memorandum is submitted by Lommen Abdo, P.A. (“Lommen Abdo”) in opposition to the Personal Representative’s Motion to Approve Payment of Consultant Payments to the extent that the motion seeks a ruling by this Court that the consulting payments are “outside the scope” of Lommen Abdo’s attorney’s lien. To be clear, Lommen Abdo does not object to the Personal Representative’s (“PR”) request for approval to make the consulting payments to its former clients pursuant to the agreements with Paisley Park Facility, LLC (“Paisley Park”), but Lommen Abdo opposes the PR’s arguments that assert that the consulting payments are not subject to its lien for attorney’s fees for the services its professionals rendered to Sharon Nelson, John Nelson and Norrine Nelson (the “Nelsons”) in connection with this proceeding. To allow the payments to be made to its former clients at this time, Lommen Abdo would agree to a limited waiver of its right to receive any part of the payments due on September 12, 2018, but since the consulting payments are within the scope of Lommen Abdo’s attorney lien under its express terms and due to the fact that Lommen Abdo specifically provided services in connection with the negotiation and drafting of the consulting agreements with Paisley Park in

August and September 2016, the Court's order should not include a finding that the consulting payments are outside the scope of Lommen Abdo's attorney's lien.

### **BACKGROUND**

Although the PR's moving papers acknowledge that Lommen Abdo represented Sharon Nelson, John Nelson and Norrine Nelson (the "Nelsons") at the time that the Consultant Agreements were negotiated and executed (PR Brief at n.2), the record submitted to this Court in connection with Lommen Abdo's Motion for Approval of Attorneys' Fees and Costs demonstrates that Lommen Abdo lawyers were in fact directly involved in the negotiation and drafting of the Consultant Agreements in August and September 2016.<sup>1</sup> The Lommen Abdo time records demonstrate that attorney Paul Bezilla prepared the initial draft of the Consultant Agreements and that Ken Abdo and Adam Gislason<sup>2</sup> were involved in drafting and revising the agreements and communicating with their clients and others about the Consultant Agreements through the balance of August and into September 2016. (See Abdo Affidavit, Exhibit C, Time Entries for "PJB" on August 19, 2016 and following entries for "KJA" and "APG").

Lommen Abdo's supporting Memorandum filed January 26, 2017 (pp. 3-4) and Mr. Abdo's Affidavit (paras. 15-17) filed with the Motion for Approval in January 2017 also demonstrate that the Consultant Agreements were conceptualized and created in connection with the Estate's effort to turn Paisley Park into a public museum. The Consultant Agreements even specifically reference the Exhibition Operating Agreement between the Estate and Paisley Park.

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<sup>1</sup>This Memorandum incorporates and will reference or cite to portions of Lommen Abdo's Memorandum of Law for the Approval of Payment of Attorneys' Fees and Costs and the Affidavit of Kenneth J. Abdo that were Filed Under Seal with the Court on January 26, 2017. The relevant Lommen Abdo Invoices for Matter Number 43516-02 are attached as Exhibit C to the Abdo Affidavit. This Memorandum will additionally reference or cite to Exhibits attached to the Affidavit of Joseph J. Cassioppi that was filed in support of the PR's motion on September 19, 2018.

<sup>2</sup>Messrs' Bezilla, Abdo and Gislason are now with the law firm of Fox Rothschild.

(Cassioppi Affidavit, Exhibit A). Given the direct connection to the Estate's operating agreement for the Paisley Park museum, the Consultant Agreements plainly arise from and relate to the Nelsons' interests as heirs to the Estate, and the record definitively demonstrates that the services provided by Lommen Abdo lawyers were necessary and instrumental in securing this source of income for the Nelsons. Indeed, the fact that Paisley Park apparently sent the payments to the PR for distribution demonstrates that it also recognizes that the consulting payments relate to the Nelson's status as Prince's heirs.

Additionally, Lommen Abdo must note that the PR's suggestion that one or more of the law firms "were willing to stipulate that the Consultant Payments are outside the scope of the Liens" is not accurate as to Lommen Abdo's position. Specifically, when contacted by Justice James Gilbert about whether or not Lommen Abdo would seek to enforce its lien as to the September 12, 2018 payments, the undersigned advised, consistent with its position in this response, that Lommen Abdo would agree to refrain from enforcing its lien rights and demanding to be paid any part of the payments due to its former clients on September 12, 2018. This concession was proposed with respect to these particular payments only and was offered as an accommodation to its former clients. This offer was not intended to be and should not be construed to be a willingness to stipulate that the Consultant Agreement payments are outside the scope of Lommen Abdo's attorney's lien. Consistent with this position, Lommen Abdo does not oppose the payment of the Consultant Payments to the Nelsons at this time, but the Court's order should not include a ruling that any further payments under the Consultant Agreements are outside the scope of Lommen Abdo's attorney's lien. The Court should rule that any future Consultant Payments are subject to Lommen Abdo's attorney lien.

## ARGUMENT

### **THE CONSULTANT AGREEMENT PAYMENTS ARE WITHIN THE SCOPE OF LOMMEN ABDO'S LIEN FOR ATTORNEYS' FEES.**

An attorney's lien is intended to prevent a client from benefiting from an attorney's services without compensating the attorney for his or her services. *Dorsey & Whitney LLP v. Grossman*, 749 N.W.2d 409, 420 (Minn. Ct. App. 2008). While it originated in the common law, attorney's liens in Minnesota are now governed entirely by statute. *Id.* (citation omitted) (internal quotation marks omitted); *see also* Minn. Stat. § 481.13 and Minn. Stat. § 525.491.

Minn. Stat. § 481.13 provides:

**Subdivision 1. Generally. (a) An attorney has a lien for compensation whether the agreement for compensation is expressed or implied (1) upon the cause of action from the time of the service of the summons in the action, or the commencement of the proceeding, and (2) upon the interest of the attorney's client in any money or property involved in or affected by any action or proceeding in which the attorney may have been employed, from the commencement of the action or proceeding, and, as against third parties, from the time of filing the notice of the lien claim, as provided in this section.**

(emphasis added). Minn. Stat. § 525.491 similarly provides:

**When any attorney at law has been retained to appear for any heir or devisee, such attorney may perfect a lien upon the client's interest in the estate for compensation for such services as may have been rendered respecting such interest, by serving upon the personal representative before distribution is made, a notice of intent to claim a lien for agreed compensation, or the reasonable value of services.** The perfecting of such a lien, as herein provided, shall have the same effect as the perfecting of a lien as provided in section 481.13, and such lien may be enforced and the amount thereupon determined in the manner therein provided.

The PR does not dispute that Lommen Abdo properly served notice of its intent to claim an attorney's lien with respect to this proceeding and expressly takes no position regarding the amount or validity of the lien. In seeking approval to disburse the Consulting Agreement

payments to the beneficiaries of the Estate, however, the PR selectively quotes Lommen Abdo's Notice of Intent to stretch for an argument that the payments due to the Nelsons under the Consultant Agreements are not subject to Lommen Abdo's lien. This assertion, however, is not consistent with broad language contained in Lommen Abdo's Notice of Intent.

The Notice of Intent served and ultimately filed by Lommen Abdo with the Minnesota Secretary of State provides:

**The attorney lien applies to: Sharon L. Nelson, Norrine P. Nelson, and John R. Nelson's (the "Nelsons") and/or their successors and assigns' interest in money or property arising from their status as heirs to the Estate of Prince Rogers Nelson (the "Estate") as claimed and/or determined in the probate matter currently pending in Carver County Probate Court, State of Minnesota, Court File No. 10-PR-16-46; including, but not limited to, their right, individually or collectively, to receive payments, property, proceeds or money of any kind as well as without limitation all accounts, contracts, instruments, chattel paper, investment property, letter of credit rights, letters of credit, other rights to payment, documents, deposit accounts, money, insurance proceeds and general intangibles related to their interests as heirs to the Estate and any and all other rights, benefits, interests and entitlements allowed, granted or permitted under or pursuant to Minn. Stat. § 481.13.**

(emphasis added).

Since the Consultant Agreements by their terms relate to and even reference the Estate's agreement to operate Paisley Park as a museum, they plainly arose from the Nelsons' status as family members of Prince and heirs to his Estate. So too, the payments that were due to be paid in September 2018 are inextricably related to their interests as heirs of the Estate as is evident from Paisley Park's actions in routing the funds through the PR. Moreover, Lommen Abdo attorneys specifically provided services to allow the Nelsons to obtain the right to the payments that are at issue on this motion. As a result, the assertion by the PR that the Lommen Abdo attorney's lien does not encompass the Consulting Agreement payments is misconceived. While Lommen Abdo will agree to waive its right to enforce its lien as to the September 2018 payments

to allow its former clients to be paid the consulting fees in full at this time, the Court's Order approving the PR's request to make the payments, however, should not include a finding that the consulting payments are outside the scope of Lommen Abdo's attorney's lien. Instead, the Court should rule that any future Consultant Payments are subject to Lommen Abdo's attorney lien.

### **CONCLUSION**

Lommen Abdo does not object to the PR's request for approval to make the payments that were due to Sharon Nelson, John Nelson and Norrine Nelson on September 12, 2018 under the terms of the Consultant Agreements with Paisley Park at this time. To alleviate the PR's concerns about its attorney's lien, Lommen Abdo will agree to waive its lien rights as to the payments due on September 12, 2018 only, but the Court's Order should include a finding that any future Consultant Agreement payments are subject to the Lommen Abdo attorney's lien.

Dated: October 12, 2018

Respectfully submitted,

LOMMEN ABDO, P.A.

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