

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT

PROBATE DIVISION

In Re:

Estate of Prince Rogers Nelson,
Deceased.

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

**MEMORANDUM IN SUPPORT OF
MOTION TO APPROVE PAYMENT
OF ATTORNEYS' FEES**

Based on this Court's Order, Hansen Dordell submits this memorandum in support of their application for attorneys' fees from the Estate of Prince Rogers Nelson (the "Estate"). Hansen Dordell attorneys performed for the benefit of and related to the administration of the Estate including, but not limited to, determinacy of heirship, the careful selection of personal representative, and the proper determination of attorney's fees to be paid by the Estate.

FACTUAL BACKGROUND

While representing Sharon Nelson, Norine Nelson, and John Nelson ("SNJ") starting November 10, 2016 through the withdrawal of counsel on February 2, 2018, Hansen Dordell has spent considerable effort assisting the Estate in proceedings that have benefited the Estate as a whole and not just SNJ. This application pursuant to this Court's Order requests reimbursement for those fees and expenses incurred which benefit the Estate.

During the relevant time period the parties and the Court sought the appointment of a personal representative for the Estate. Hansen Dordell attorneys assisted in the process of choosing a possible replacement administrator or personal representative. Hansen Dordell reviewed the selection for personal representative, offered analysis and input, and attended several meetings with the other Heirs' counsel about the selection of personal representative. Hansen Dordell

participated in the fairly extensive selection process for a personal representative, eventually helping to decide that Comerica Bank & Trust (“Comerica”) should be appointed. (*See* Dec. 7, 2016 Sayers Aff., ¶ 7.) Comerica accepted the appointment and became personal representative of the Estate on December 13, 2016. (*See* Dec. 7, 2016 Acceptance of Appointment as Personal Representative and Oath By Corporation.)

Coinciding with choosing the personal representative, Hansen Dordell also helped review and revise Protocols for the personal representative to help ensure a smooth transfer of control from Bremer, which included extensive communications with Bremer and other Heirs’ counsel, reviewing Protocols for Negotiations for Long-Form Court Approved Agreements, and reviewing Protocols for long-form contracts.

At this time, counsel on behalf of Tyka Nelson, Omarr Baker, and Alfred Jackson, as well as Bremer, submitted their respective motions seeking attorneys’ fees and expenses that benefitted the Estate as a whole. Hansen Dordell objected to some of the submitted fees and provided analysis regarding the appropriateness of the fees and reimbursement.

ARGUMENT

I. Hansen Dordell Attorneys Should Be Reimbursed For Their Attorneys’ Fees and Expenses Because Their Work Benefitted the Estate as a Whole

A. Legal Standard

Attorney fees are awarded based upon a district court’s discretion. *In re Estate of Balafas*, 302 Minn. 512, 516, 255 N.W.2d 539, 542 (1975). The party seeking to recover attorney fees and expenses from an estate has the burden to show that the fees and expenses incurred were to the estate’s benefit. To the extent that the services of an attorney for an interested person contributes to the benefit of the estate as a whole, the court must consider the following factors in determining whether the fees are reasonable:

- (1) The time and labor required;
- (2) The experience and knowledge of the attorney;
- (3) The complexity and novelty of problems involved;
- (4) The extent of the responsibilities assumed and the results obtained; and
- (5) The sufficiency of assets available to pay for the services.

Minn. Stat. § 525.515 (2016).

An attorney's services for an interested person that contributes to the benefit of the estate should be reimbursed, verses from the services that solely benefited the interested person. Minn. Stat. § 524.3-720 (2016). Pursuant to Minn. Stat. § 524.3-720:

Any personal representative or person nominated as personal representative who defends or prosecutes any proceeding in good faith, whether successful or not, or any interested person who successfully opposes the allowance of a will, is entitled to receive from the estate necessary expenses and disbursements including reasonable attorneys' fees incurred.

Courts have not specifically defined what a "benefit" to an estate is deemed to mean, but has awarded attorney fees in differing circumstances. *See e.g., In re Atwood's Trust*, 227 Minn. 495, 35 N.W.2d 736, 737 (1949) ("A reasonable allowance for counsel fees to be paid out of the trust corpus may be made to necessary parties to a proceeding for the construction of ambiguous trust provisions, regardless of whether their interests are promoted or defeated by the final result"); *Gellert v. Eginton*, 770 N.W.2d 190, 198 (Minn. Ct. App. 2009) (recovery of real estate allegedly conveyed to another party benefited the estate when gift deed was returned to the estate); *In re Estate of Van Den Boom*, 590 N.W.2d 350, 354 (Minn. Ct. App. 1999) (holding that an interested person who kept a major estate asset intact benefited the estate Furthermore, an action that benefits the estate does not need to solely benefit the estate without also benefiting the intended beneficiary. *See Gellert*, 770 N.W.2d at 197–98. Attorney fees should be awarded if they were "just, reasonable and commensurate with the benefit to the estate that was obtained." Minn. Stat. § 524.3-720; *Gellert v. Eginton*, 770 N.W.2d 190, 194 (Minn. Ct. App. 2009).

B. Benefit to the Estate as a Whole

The efforts that Hansen Dordell's counsel are claiming attorney fees from the Estate benefitted the Estate as a whole and not just SNJ. There are two specific areas where counsel for SNJ acted in the benefit of the Estate as a whole, and should be compensated. First, counsel reviewed and helped select Comerica as Personal Representative, including reviewing all candidates, conferring with all counsel and the Court, assisting the selection process, and helping implement the protocols under which the transition would occur and Comerica would operate. Additionally, when counsel and former counsel for the other determined Heirs submitted their petitions for attorneys' fees from the Estate, Hansen Dordell was instrumental in serving as a check to limit the millions claimed in attorneys' fees to a number which more properly reflected the benefit to the Estate from counsels' work. The invoices submitted by Mr. Sayers reflect work done by Hansen Dordell attorneys on both areas. (*See* Affidavit of Randall W. Sayers, Ex. 1.)

1. Search for a Personal Representative

Choosing a personal representative to manage this Estate required considerable time and effort. This Court has already approved the award of attorneys' fees from the Estate for efforts in helping to find a personal representative. (*See* Apr. 5, 2017 Order, at 4–5.)¹ This Court has also adopted the recommendations of the Special Master approving attorneys' fees for this work, both for selection of a personal representative and in assisting with protocols. (Oct. 4, 2018 Order.) Hansen Dordell attorneys reviewed the possible candidates and offered suggestions regarding the personal representative that would be the most suitable to oversee the Estate. These efforts included reviewing and analyzing several candidates, communicating with the Court and other

¹ The Order granting in part and denying in part attorneys' fees to other counsel was affirmed in part, reversed in part, and remanded for a more detailed order. *In the Matter of the Estate of Nelson*, No. A17-0880, 2018 WL 492639 *7 (Minn. Ct. App. January 22, 2018.) Notably, however, neither any party nor the court in its opinion raises the issue that attorneys' fees for helping select a personal representative should *not* have been allowed.

advisors and counsel, and ensuring that the transition from Bremer to the personal administrator did not encumber the Estate. (*See* Affidavit of Randall Sayers, Ex. 1.) SNJ presented information related to this selection at hearing and assisted the Court in vetting the candidates for the proposed co-personal representatives.

In addition to helping select Comerica as Personal Representative, Hansen Dordell counsel also reviewed and added insight into some of the Protocols for Bremer as Special Administrator. Hansen Dordell counsel also designed, reviewed, and discussed several additional Protocols for the Personal Representative to ensure the Estate would not suffer any negative effects when power transferred from Bremer to Comerica. Lastly, Hansen Dordell counsel offered suggestions to the Court regarding Protocols that should be adopted regarding Comerica as Personal Representative to help maintain the balance of control between the Personal Representative and all six Heirs so the Estate could be administered efficiently. (*See* Sayers Aff., Ex. 1.)

These efforts contributed benefit to the Estate, and although the exact dollar value of such benefit is impossible to calculate, this Court has already granted attorneys' fees to other firms who similarly participated in keeping with the "big picture" and "broader strokes" guidance from the Court of Appeals. (Oct. 4, 2018 Order.) Therefore, Hansen Dordell should be granted its attorneys' fees for its efforts on behalf of the Estate.

2. Determining Other Heirs' Counsels' Motion for Attorneys' Fees and Costs

Hansen Dordell's efforts in reviewing the multitude of billing entries submitted by other Heirs' attorneys directly helped the Estate retain money, and thus granted benefit to the Estate as a whole. Hansen Dordell attorneys went through each billing entry by other Heirs' counsels for services claimed as benefitting the Estate, in order to ensure that the claims for attorneys' fees were for services which benefitted the Estate. (*See* Sayers Aff., Ex. 1.) As a result of these efforts,

this Court was better able to properly grant or deny attorneys' fees claimed by counsel for the Heirs. As the Court of Appeals noted in reviewing the award of attorneys' fees, the Special Administrator had taken no position on the issue. *Matter of Estate of Nelson*, 2018 WL 492639 at *2. The court noted that an award of fees to an attorney who "performs services in lieu of an attorney for the estate . . . is more likely to be just and reasonable" than services performed under other circumstances. *Id.* at 6.

Although Comerica was appointed as Personal Representative and later joined in the defense of the Estate, the work done by Hansen Dordell helped clarify the record for this Court and was done directly on behalf of the Estate. *See generally Metzger v. First Nat. Bank of Clearwater*, 585 So. 2d 372 (Fla. Dist. Ct. App. 1991) (holding that guardian of incapacitated ward was entitled to reimbursement for attorney fees and costs incurred in opposing efforts by ward's husband to petition joint bank accounts). This work eventually led to the more detailed work of the Special Master, which benefitted the Estate in ensuring that fees paid by the Estate gave value to the Estate. The Court initially awarded approximately \$400,000, or about one-sixth of the amount requested. *Matter of Estate of Nelson*, 2018 WL 492639 at *1. To this, the Special Master recommended, and this Court adopted, the award of another approximately \$340,000. (Oct. 4, 2018 Order at 1, adopting Special Master's Order, at 2.) Thus, the time and effort put forth by Hansen Dordell assisted the Estate in retaining over \$1.6 million, and the fees sought by Hansen Dordell are more than commensurate with that value. For this reason, these fees as well should be awarded to Hansen Dordell from the Estate.

CONCLUSION

Based on the above reasons, Claimant Hansen Dordell respectfully requests that this Court grant the application for attorneys' fees as benefitting the Estate of Prince Rogers Nelson, and issue an order granting the distribution of attorneys' fees from the Estate to Hansen Dordell.

Respectfully submitted,

HANSEN, DORDELL, BRADT, ODLAUG
& BRADT, P.L.L.P.

Dated: April 15, 2019

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