

STATE OF MINNESOTA
COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
DISTRICT COURT
PROBATE DIVISION

In re:

Estate of Prince Rogers Nelson,

Court File No. 10-PR-16-46

Judge Kevin W. Eide

Decedent.

PETITION TO PERMANENTLY REMOVE
COMERICA BANK & TRUST N.A.
AS PERSONAL REPRESENTATIVE

The undersigned Petitioners, Sharon L. Nelson, Norrine P. Nelson, and John R. Nelson, as heirs to the estate of Decedent Prince Roger Nelson ("Prince"), state:

1. Sharon L. Nelson is one of the joint Petitioners in this matter.
2. Norrine P. Nelson is one of the joint Petitioners in this matter.
3. John R. Nelson is one of the joint Petitioners in this matter.
4. In the interests of privacy, the Petitioners' address is c/o William R. Skolnick, Esq. 2100 Rand Tower 527 Marquette Ave. S. Minneapolis, MN 55402.
5. All Petitioners are the Decedent's heirs (Order Determining Intestacy, Heirship & McMillan Matters ¶ 2 (dated May 18, 2017)).
6. As heirs, the Petitioners are interested persons under the laws of Minnesota. Minn. Stat. § 524.1-201(33).
7. Comerica Bank & Trust, N.A. ("Comerica") is the current personal representative of Decedent Prince Roger Nelson's Estate ("Estate"), appointed by the Court effective February 1, 2017. (Transition Order p. 4 (dated January 18, 2017)).

8. Pursuant to Minn. Stat. § 524.3-611(a), and based on good cause shown, Petitioners jointly petition the Court to remove Comerica as personal representative of the Estate.
9. Under Minn. Stat. § 524.3-611(a), “[a] person interested in the estate may petition for removal of a personal representative for cause at any time.”
10. “Cause for removal exists when removal is in the best interests of the estate, or if it is shown that a personal representative or the person seeking the personal representative's appointment intentionally misrepresented material facts in the proceedings leading to the appointment, or that the personal representative has disregarded an order of the court, has become incapable of discharging the duties of office, or has mismanaged the estate or failed to perform any duty pertaining to the office.” Minn. Stat. § 524.3-611(b).
11. Cause for removal of Comerica exists because Comerica has intentionally misrepresented material facts regarding its competence and intentions leading to the appointment, it has mismanaged the Estate, wasted and failed to protect valuable Estate assets, allowed irreconcilable conflicts of interest, disregarded the Court’s Transition Order as well as the March 22, 2017 Order Regarding Application of Existing Orders and Protocols to The Personal Representative in failing to disclose and communicate material facts to the Heirs, and generally failed to act in the best interests of the Estate.¹ *See In re Drew's Estate*, 236 N.W. 701, 702-03 (Minn. 1931) (failure to follow Court’s order is a removable offense); *Matteson v. McClure*, 245 N.W. 382, 382 (Minn. 1932) (executor can be removed for waste, mismanagement, delay, or other serious issues).

¹ In Petitioners’ September 28, 2017 letter, Petitioners’ counsel brought a number of Comerica’s failings as personal representative to the attention of the Court.

12. Regrettably, after hoping and praying matters would work out with Comerica, the Petitioners, who comprise one-half of the Heirs, have lost their trust in Comerica and see no other course of action but to remove Comerica immediately to safeguard the best interests of the Estate.

Failure to Protect and Manage Estate Assets

13. While Comerica has failed in its duties as a personal representative for a number of reasons, one of the most significant is Comerica's recent unilateral decision to begin transferring the uniquely valuable and voluminous unreleased recordings known as the "Vault," kept safe in Decedent's private vault for decades, to a third-party company, Iron Mountain in Los Angeles, despite other Iron Mountain facilities in the Twin Cities, all without sufficient preparation and communication on the decision to all the Heirs or without a court order.
14. As the Court is aware, the Decedent's Estate contains the world-renowned Vault, a large volume of previously unreleased music and video recordings by Prince. It is uncontested that these assets represent potentially the largest value in the Estate other than Prince's released music publishing and recordings. These are unique, one-of-a-kind assets whose value lies, in part, in the mystique that such a trove of unreleased Prince material generates. The archiving and preservation of these assets is the first step in transactions that will generate well in excess of \$2 million in value. Consequently, this is the type of decision that the Court ordered to be disclosed. (Order ¶ 3 (dated March 22, 2017)).
15. Rather than maintain the Vault recordings where they have been kept secure at Paisley Park (owned by the Estate and with a world class recording studio in its own right), Comerica contracted with Iron Mountain, without disclosure of the necessary terms as

required by the Court's March 22, 2017 Order, to move the contents piecemeal, by truck, to California. Comerica failed to communicate its decision to move the materials—announcing that they were considering such a move at an Heirs meeting, but never asking for permission or input from Petitioners. Under the Court's March 22, 2017 Order, the movement of the Vault recordings is the type of decision which Comerica should have fully disclosed and thoroughly discussed with the Heirs prior to taking any action. In fact, Petitioners only learned that portions of the Vault had been moved from one of the other Heirs long after the move, rather than from Comerica directly. Comerica also failed to communicate such a move at the Court ordered status meeting on September 29, 2017.

16. Upon information and belief, prior to moving the contents of the Vault, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] None of these important asset protection matters were discussed with the Heirs which also violates the communication directives of the Court.

17. Instead of being trucked across the country, the recordings should have remained in Minnesota, with limited access, so that a watchful eye is present and so they may be kept safe until such time as the Estate is in a position to best utilize them. Neither Comerica nor any of the Heirs reside or work in Los Angeles. If the recordings are kept at Iron Mountain in Los Angeles, there will be little if any ability to control access to the recordings, which not only exposes them to devaluation due to leaks, control of third parties, and possible review of the contents, all of which are a vital part of Decedent's legacy and value of the Estate.

18. [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

19. In short, the Vault at Paisley Park is the best location for this material, especially given the concerns around identification, inventorying, and evaluation of these assets.

Comerica's decision to remove the contents of the Vault exposed them to theft, loss, damage, leaks, and the risk that the contents will not be properly inventoried, evaluated, or copied at Iron Mountain.

20. By Comerica's own admission, after the fact, [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

[REDACTED] Comerica should have considered these important matters prior to moving the Vault assets to Los Angeles, far away from where Prince safely maintained them for decades.

21. The removal of the recordings is made all the more concerning by Comerica's failure to zealously defend against the unauthorized use of other precious Estate assets on the internet. Comerica contracted with a company called [REDACTED] to protect the Estate's intellectual property at substantial expense, but substantial infringement

continues to plague the Estate. For example, [REDACTED]

[REDACTED]
[REDACTED] (See

attached Correspondence (“Ex. B”). Despite assurances that [REDACTED] would take appropriate actions, infringement of Prince’s intellectual property continues, demonstrating that Comerica is either unwilling or unable to aggressively defend the Estate’s assets from unauthorized use.

22. Comerica’s failure to properly protect the Estate’s audio and visual recordings is the just the tip of the iceberg. Despite Comerica’s lack of entertainment and music expertise, Comerica has failed to include those who have had direct experience with Prince and those knowledgeable about the business. Specifically, Comerica has refused to permit Petitioners’ business representative, L. Londell McMillan, to attend Heir meetings and has refused to negotiate reasonable terms of a non-disclosure agreement (“NDA”) related to McMillan. The exclusion of those who understood Prince’s business, as well as certain Heirs, is causing economic waste and irreparable harm to the Estate. In making certain publishing and licensing decisions, Comerica has failed to maximize revenue for the Estate.

23. The unique music and entertainment business knowledge needed to manage and operate the Estate is severely lacking by Comerica and its advisors, potentially costing the Estate millions of dollars. Failure to properly negotiate each deal has substantial consequences. Despite reasonable efforts to assist Comerica, they have stubbornly contested the Petitioners’ (and their advisors’) efforts to create additional value for the Estate. One costly flaw is Comerica’s refusal to utilize the licensing rights of the Estate’s music

publishing catalog to increase the revenue derived from business opportunities. Early on, it became obvious that Comerica either did not understand how to negotiate the best deals for the Estate (utilizing the publishing approval or blocking rights) and/or were unwilling to challenge companies like [REDACTED] to obtain substantially larger licensing fees and advances to benefit the Estate. (*See* Order, p. 2 (dated June 9, 2017)). In situations in which Petitioners' advisor has been involved, the Estate has realized substantially increased income. *Id.*; (*See attached* Email Chain last dated June 5, 2017 ("Ex. C")).

24. This Court will be overwhelmingly burdened should the Heirs challenge each and every ill-advised and incompetent decision of the personal representative, the repercussions of which the Heirs will be saddled with and harmed by after Comerica is eventually discharged. At the same time, Comerica has spent millions of dollars and authorized excessive amounts on consulting and legal fees, notably to Troy Carter, with little to no benefit to the Estate.
25. The Court was hopeful Comerica would be capable of managing the Estate. The Heirs expressed reservations and sought co-personal representatives. Comerica has no experience managing this type of Estate. The Court itself noted that the "entertainment and other business transactions needed to monetize the Estate are challenging and taking place in a fast-paced marketplace." (Order p. 2 (dated August 11, 2016)). Comerica's conduct has been haphazard and inconsistent, demonstrating that it is out of its depth as the personal representative. While it may be able to make certain property business decisions, like selling the Estate's real estate, it lacks the experience and skill to effectively manage the creative business decisions of the Estate. As a consequence, it has

wasted substantial Estate assets in paying an inexperienced, conflicted entertainment advisor and in entering into ill-advised entertainment-related contracts that fail to maximize the value of these Estate assets.

26. As the Court is well aware, Comerica was the personal representative during the dispute over the UMG contract—a rescinded agreement that ultimately cost the Estate a primary income stream. On January 31, 2017, the Estate, managed by Bremer Trust, entered into a contract with Universal Music Group (“UMG”) for the exclusive licensing and distribution of certain musical works that are specified in the contract. Comerica became the personal representative of the Estate effective one day later, on February 1, 2017.

27. On February 9, 2017, during Grammys Weekend, UMG issued a joint press release announcing that UMG had been provided with “exclusive licensing rights to Prince’s NPG recordings, including a library of 25 albums and unreleased works.” The release also stated that “Beginning next year (in 2018), UMG will obtain U.S. rights to certain renowned Prince albums released from 1979 to 1995.”

28. One day later, on February 10, 2017, Warner Bros. Records (“WBR”) sought to undermine the UMG contract by contacting both Comerica and UMG, claiming that an

[REDACTED]

[REDACTED]

That claim was false because under the WBR contract, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Also, in a move embarrassing to UMG,

Comerica approved and allowed WBR to issue a news release regarding WBR putting

out Purple Rain Vault Masters which undermined what UMG thought it had negotiated; this announcement also came during the same weekend of the Grammys. This irritated UMG who had paid so much money for a broad set of rights including these rights and other sound recording distribution rights.

29. In response to WBR's letter and UMG's inquiries, Comerica began an investigation of the rights under the UMG and WBR contracts, and ultimately entered into a rescission agreement with UMG because, in its own words, it could not "unequivocally" rule out the possibility that the rights given to UMG interfered with rights granted to WBR under the 2014 contract. After an unsuccessful negotiation, UMG began to demand a rescission of the [REDACTED] and refused to consider anything after UMG and Comerica entered into a written agreement to rescind the deal, without approval from the Heirs or the Court. This Court ultimately approved the request for rescission, largely to avoid protracted litigation, which resulted in the Estate returning [REDACTED] to UMG. To date, Comerica has not entered into a new contract to replace the lost revenue for the distribution of the all the non-WBR sound recording rights for Prince's music.
30. Although the Court ultimately approved the rescission, it was UMG's handling of the claim by WBR that left the Court with little choice. In the music industry, it is common for companies such as WBR to aggressively assert expansive contractual rights to distribution and licensing, and such disputes are routinely resolved through the negotiation process. In this case, WBR took advantage of Comerica's lack of industry experience and lack of experience with the Estate to make claims well beyond those justified by the WBR contract. However, rather than working with those previously involved with the Estate and rather than promptly and vigorously defending the UMG

contract and asserting the Estate's rights, Comerica first delayed, then took a neutral position and allowed WBR to gain momentum with its false claim that it had rights that were breached by the UMG agreement. Bremer Trust and their legal advisors did not share WBR's view and neither did the Petitioners and their advisors.

31. Comerica breached its duty to the Estate and to the beneficiaries by not promptly and aggressively defending the UMG contract, by allowing WBR's issuance of an untimely and misguided press release regarding Prince music (which embarrassed and irritated UMG) without adequately consulting Bremer or its advisors, by not immediately seeking Court approval to allow discovery of the WBR contract by UMG, by not leveraging the potential of other business dealings with WBR in order to negotiate a favorable resolution that would have allowed the UMG contract to go forward, and by first taking a neutral position, and later entering into a rescission agreement without first involving the heirs or obtaining prior Court approval. Even following rescission, Comerica has breached its duty by indicating that it is going to re-market while conceding [REDACTED] [REDACTED]. Furthermore, most of Prince's sound recording music remains without a worldwide distribution partner and the only music widely available, other than through digital and streaming, is the WBR records. This loss of income even after the rescission is a waste and Prince fans worldwide as well as the Estate suffers as a result.
32. Comerica has been a personal representative for almost ten months now and it has failed to manage and administer the distribution of over 21 albums, recorded and previously released by Prince yet widely unavailable to the public who have yearned to purchase Prince's music since his death. This is a colossal failure and evidences a waste of

millions of potential dollars to the Estate. The lapse of time to have this music made available for sale has caused irreparable harm and will continue to harm the Estate each and every day there is a delay. These legacy albums include:

- a. *Emancipation*
- b. *Crystal Ball*
- c. *One Nite Alone Album*
- d. *Xpectation*
- e. *N.E.W.S.*
- f. *Musicology*
- g. *Lotusflow3r*
- h. *MPL Sound*
- i. *20Ten*
- j. *Plectrumelectrum*
- k. *The Truth*
- l. *The Vault*
- m. *Rave un2 the Joy Fantastic*
- n. *The Rainbow Children*
- o. *NPG Music Club vol1*
- p. *NPG Music Club vol2*
- q. *3121*
- r. *Planet Earth*
- s. *Art Official Age*
- t. *Hit n Run Phase 1*

u. *Hit n Run Phase 2*

33. The filing of this Petition, with receipt to Comerica, triggers a mandatory cease and desist period, in which Comerica may take “no act except to account, to correct maladministration or preserve the estate.” Minn. Stat. § 524.3-611(a). Thus, no further transfer of any recordings may occur until ordered by the Court.
34. To ensure that no more recordings and licenses are exposed to the risk of mismanagement, theft, or leaks, Petitioners also petition the Court for a temporary order restraining Comerica from removing *anything* from Paisley Park, including but not limited to any recordings. Minn. Stat. § 524.3-607. To the extent not constrained by the requirements of Minn. Stat. § 524.3-611(a), if the Court orders protection beyond the cease and desist period, it should restrain Comerica from permitting any digitization of records, entering into any new contracts on behalf of the Estate, disposing/transferring of any Estate assets, or taking any other action that jeopardizes the security and secrecy of valuable Estate assets.

Comerica Creates Conflicts of Interest

35. Comerica also hired an “entertainment advisor” Troy Carter, [REDACTED]
[REDACTED]
[REDACTED] “In determining the best interests of the estate, the personal representative’s compensation and fees, and administrative expenses, shall also be considered.” Minn. Stat. § 524.3-611(b). Carter’s excessive compensation, [REDACTED], are due regardless of the results he obtains and the value he brings to the Estate.

36. Carter is a senior executive of Spotify, one of the world’s leading music-streaming services. This conflict was not disclosed to the Court or the Heirs, at least prior to September 29, 2017, well after he was retained. (*See attached* Troy Carter Presentation (“Ex. E”). Not only is a music-industry executive with substantial conflicting interests heavily advising Comerica, regarding the volumes of invaluable unreleased media, but Spotify continues to stream Prince’s music and almost certainly has interest in securing additional rights. These facts represent clear conflicts of interest created by Comerica. Not only are these conflicts of interest cause for removing Comerica, but Comerica also failed to properly advise the Heirs prior to Carter being retained.

37. Comerica also has refused to compensate the Heirs for their valuable time and expenses, has not made interim distributions, and has provided only scant detail regarding its timeline for transition and distributions from the Estate. Instead, Comerica recommended

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Upon information and belief,

Comerica has shown partiality towards certain Heirs by allowing certain Heirs to live rent free on Estate assets, has private meetings with them concerning the Estate, and may have

informed at least one of them about the transfer of the Vault recordings to California before Petitioners were informed. A personal representative, like a trustee, should have a fiduciary duty of impartiality. *See* Minn. Stat. § 501C.0803.

39. In May 2017, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Comerica Violates Court Orders Regarding Communications with Heirs

40. In appointing Comerica as the corporate personal representative, the Court emphasized the need for transparency and good faith communications, stating that it “expects that Comerica will make communication with the heirs a high priority.” (Transition Order ¶ 4(iii) (dated January 18, 2017)).

41. The Court further recognized the value and issues involved in “licensing and exploiting the entertainment assets of the Estate.” (Order ¶ 3 (dated March 22, 2017)). In so doing, the Court ordered Comerica to provide the “Heirs at least 14 business days prior to entering into any transaction under which the Personal Representative reasonably anticipates receiving more than \$2 million in value, including to allow the Non-Excluded Heirs an opportunity to seek Court relief with respect to any such transaction.”² *Id.*

² Comerica was also required to disclose information necessary for Petitioners to make a knowledgeable assessment of the merits of the proposed transaction. (Order ¶ 8 (dated March 22, 2017)).

Furthermore, “[Comerica] shall...keep the Non-Excluded Heirs informed (reporting on at least a monthly basis) regarding the assets and business transactions of the Estate.” *Id.*

42. Rather than making communications a high priority, as the Court ordered, Comerica often fails to provide any communication to the Petitioners or, when it does, only communicates with them on minor matters and after major plans have been solidified.
43. For example, Comerica has not provided Petitioners with a full accounting or inventory of Estate assets, including the Vault’s contents. Nor has it provided sufficient communication regarding the valuation of the Estate, tax payment options, major litigation considerations or business plans related to the Estate, certain charitable endeavors, or where Estate funds are being deposited. When Petitioners, through counsel, or their business manager have requested information, Comerica has been evasive.
44. Similarly, Comerica has refused to discuss aspects of the estate or present reasonable terms and negotiate an appropriate NDA with McMillan. The Petitioners have an agreement with McMillan to protect their personal and business interests. The Petitioners and their counsel have directed Comerica to provide McMillan with business communications for them to consider. In that role, McMillan has authority to act on Petitioners’ behalf in certain matters, including interactions with Comerica. Despite the Court’s multiple orders directing Comerica to make communication with the heirs a high priority, Comerica has made it difficult and avoided entering a NDA with McMillan and also stated that it intends to disregard communications from McMillan concerning the Estate and its assets. (*See attached* October 12, 2017 Email Chain (“Ex. I”).)

