

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT  
PROBATE DIVISION

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In the Matter of:

Court File No. 10-PR-16-46

Judge Kevin W. Eide

Estate of Prince Rogers Nelson,

Decedent.

**COMERICA BANK & TRUST, N.A.'S  
MEMORANDUM IN OPPOSITION TO  
MOTION TO AMEND COURT ORDER  
REGARDING ESTATE INFORMATION  
DATED FEBRUARY 13, 2019**

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**[REDACTED VERSION]**

As set forth in greater detail in Comerica Bank & Trust, N.A.'s March 5, 2019 Motion to Hold Gregg Walker in Contempt of Court, Michael Lythcott and Gregg Walker intentionally committed numerous serious breaches of their non-disclosure obligations to the Estate, as well as violated multiple protective orders entered by the Court. (March 5, 2019 Declaration of Joseph J. Cassioppi in Support of Contempt Motion ("Cassioppi Dec."), Exs. A-G.) Far worse than the disclosures to Primary Wave and Goldman Sachs referenced in Alfred Jackson and Omarr Baker's motion, Mr. Lythcott's misconduct included [REDACTED]

[REDACTED] (*Id.*, ¶ 9 & Ex. G.) Based only on the improper conduct uncovered thus far by Comerica (which has had less than a week to review the approximately 10,000 documents produced by Mr. Lythcott), the Court can and should deny Mr. Jackson and Mr. Baker's motion to amend the Court's February 13, 2019 Order to "reinstate

Mr. Lythcott as a representative of the Heirs.”<sup>1</sup> Mr. Lythcott has definitively proven by his actions that he cannot be trusted with any confidential information that belongs to the Estate. As such, the Court should reject any attempt by Mr. Lythcott or his clients to restore Mr. Lythcott’s access to confidential Estate information or records.

Mr. Jackson and Mr. Baker also request that the Court restrict the dissemination of information provided by Mr. Lythcott in response to the February 13 Order to attorneys at Fredrikson & Byron. As an initial matter, Mr. Lythcott is represented by his own attorneys in this matter. To the extent that he has concerns about the dissemination of information produced under the February 13 Order, he can raise those concerns himself.

Regardless, the restrictions sought by Mr. Jackson and Mr. Baker are both unwarranted and unnecessary. Comerica is a professional fiduciary with confidentiality obligations to the Estate under Minnesota law. Fredrikson needs the ability to share documents and information contained therein with Comerica to: (1) analyze and report to the Court regarding the scope of Mr. Lythcott’s misconduct; (2) determine the Estate’s reporting obligations to its entertainment partners; and (3) otherwise manage the consequences of the wide-spread unauthorized disclosure of the Estate’s most sensitive information. Comerica and its counsel also need the ability to share relevant information with the Court, the Heirs, and their counsel of record (with all such information and records filed confidentially with the Court). Additionally, Comerica may need the assistance of its agents (all of whom have non-disclosure agreements with the Estate) to manage the fallout from Mr. Lythcott’s misconduct (for example, [REDACTED]).

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<sup>1</sup> Mr. Lythcott was never formally appointed as an Heirs’ Representative, but was provided access to confidential Estate information under a non-disclosure agreement with the Estate, which Comerica provided him at the request of Mr. Baker. Comerica construes the motion to amend the February 13, 2019 Order as seeking to restore Mr. Lythcott’s access to confidential Estate information, including on the Estate’s HighQ data site.

\_\_\_\_\_). Comerica should not be precluded from providing those records to its agents that are necessary for Comerica to fulfill its obligations as Personal Representative. Finally, Comerica may need to utilize information produced by Mr. Lythcott to communicate with its entertainment partners or to send notices to third-parties to whom Mr. Lythcott provided confidential information requiring the return and destruction of that information.

Mr. Jackson and Mr. Baker have not identified any aspect of Mr. Lythcott's document production that is so sensitive that it cannot be shared with Comerica or its agents. Indeed, standard protective orders (including the model protective order utilized in the United States District Court for the District of Minnesota<sup>2</sup>) allow the disclosure of confidential information by counsel to parties and agents, so long as those agents are themselves subject to confidentiality obligations.

As a result, the Court should deny Mr. Jackson and Mr. Baker's request to restrict the disclosure of information produced by Mr. Lythcott solely to Fredrikson & Byron. To the extent that the Court imposes any restrictions on disclosure, such restrictions should not interfere with Comerica's ability to review and analyze the information, provide it to the parties and the Court, or take steps to mitigate the damage caused by Mr. Lythcott's improper actions. Comerica and counsel hereby represent to the Court that they will use the utmost caution in connection with all information they have been provided and only disclose that information which is necessary to fulfill Comerica's fiduciary obligations to the Estate.

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<sup>2</sup> See [http://www.mnd.uscourts.gov/local\\_rules/forms/Stipulation-for-Protective-Order-Form.pdf](http://www.mnd.uscourts.gov/local_rules/forms/Stipulation-for-Protective-Order-Form.pdf)

Dated: March 7, 2019

/s/ Joseph J. Cassioppi

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