

STATE OF MINNESOTA**DISTRICT COURT****COUNTY OF CARVER****FIRST JUDICIAL DISTRICT
CASE TYPE: PROBATE DIVISION**

In the Matter of:

Case File No.: 10-PR-16-46

Estate of Prince Rogers Nelson,

Decedent.

**MEMORANDUM OF LAW IN
SUPPORT OF MOTION AND MOTION
TO FILE LETTER UNDER SEAL**

Pursuant to Minnesota Rule of Civil Procedure 11.06(c) and the Court's Order Regarding the Filing of Certain Documents Under Seal, dated January 23, 2017, and Minnesota Rule of General Practice 11.06(c), non-party Michael Lythcott hereby moves the Court for leave to file his letter dated February 22, 2019 under seal.

Sealing of the letter is authorized and justified by law. *See* Minn. R. of Public Access to Records of Judicial Branch 4; Minn. R. Civ. P. 26.03(a)(7); Minn. R. of Gen. Prac. 11.06(c); *In re GlaxoSmithKline, PLC*, 732 N.W.2d 257, 268-69 (Minn. 2007); *Minneapolis Star & Tribune Co. v. Schumacher*, 392 N.W.2d 197, 202 (Minn. 1986).

The letter and its attached exhibits refer to confidential business transactions and the procedures and administration of confidential information that belongs to the Estate. For example:

- The letter discusses Mr. Lythcott's disclosure of confidential information that resulted in the Court's February 13, 2019 Order Regarding Estate Confidential Information. It is our understanding that a significant portion of the submissions preceding this Order were filed under seal. For this reason, it remains somewhat unclear what matters the Court considers public and in an effort to protect all parties' information, Mr. Lythcott request that the letter and its exhibits be placed under seal.

- The letter references a non-disclosure agreement (“NDA”) between Mr. Lythcott and another entity which, in and of itself, contains a non-disclosure provision.

Additionally, that NDA is attached as Exhibit B to the letter.

- The letter refers Mr. Lythcott’s proprietary work product.
- Exhibit A is a string of emails between Mr. Lythcott and another entity that contains confidential business information.

Any presumption of public access to these filings is outweighed by the need to protect not only the confidential information, but also the mechanisms by which this information is exchanged and protected. This is especially true where, as here, the Estate has alleged that Mr. Lythcott violated the NDA he signed with the Estate. Because Mr. Lythcott is not a party to this litigation and numerous filings have already been made under seal, Mr. Lythcott, in an abundance of caution, seeks to protect not only his own confidential information, but also the confidential information of the parties and their associates in this matter. Further, because the confidential information is interspersed throughout the letter and exhibits, redaction is impracticable.

For the foregoing reasons, Mr. Lythcott respectfully requests that the Court grant the Motion to File Letter Under Seal.

Dated: February 22, 2019

MADEL PA

/s/ Ellen M. Ahrens

Christopher W. Madel (#230297)

Jennifer M. Robbins (#387745)

Ellen M. Ahrens (#391004)

800 Hennepin Avenue

800 Pence Building

Minneapolis, MN 55403

T: 612-605-0630

F: 612-326-9990

cmadel@madellaw.com

jrobbins@madellaw.com

eahrens@madellaw.com

Attorneys for Michael Lythcott

ACKNOWLEDGMENT

The undersigned hereby acknowledges that pursuant to Minn. Stat. § 549.211 costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the undersigned acted in bad faith; asserted a claim or defense that is frivolous and that is costly to the other party; asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass; or committed a fraud upon the Court.

Dated: February 22, 2019

MADEL PA

By s/Ellen M. Ahrens
Christopher W. Madel (# 230297)
Jennifer M. Robbins (#387745)
Ellen M. Ahrens (#391004)
800 Hennepin Avenue
800 Pence Building
Minneapolis, MN 55403
Phone: (612) 605-0630
Fax: (612) 326-9990
cmadel@madellaw.com
jrobbins@madellaw.com
eahrens@madellaw.com

Attorneys for Michael Lythcott