

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT  
PROBATE DIVISION

---

In the Matter of:

Court File No. 10-PR-16-46

Judge Kevin W. Eide

Estate of Prince Rogers Nelson,

Decedent.

**DECLARATION OF  
JOSEPH J. CASSIOPPI IN SUPPORT OF  
COMERICA BANK & TRUST, N.A.'S  
OPPOSITION TO MOTION FOR RETURN OF  
FLASH DRIVE AND MOTION FOR COSTS**

---

[REDACTED]

I, Joseph J. Cassioppi, declare and state as follows:

1. I am a shareholder at Fredrikson & Byron P.A., counsel for Comerica Bank & Trust, N.A., the Personal Representative of the Estate of Prince Rogers Nelson.

2. On February 25, 2019, counsel for Michael Lythcott produced to us a subset of what Mr. Lythcott produced to the Court on February 22, totaling 9,561 emails and documents. We sought clarification from Mr. Lythcott's counsel regarding the difference between what was provided to the Court and what was provided to us. Counsel for Mr. Lythcott advised us that some of the more than 20,000 documents provided to the Court were being withheld as privileged, some were non-responsive, and that we would be receiving a supplemental production with the remaining responsive non-privileged documents.

3. Attached hereto as Exhibit 1 is a true and correct copy of a March 7, 2019 letter from Ellen Ahrens, one of the attorneys for Mr. Lythcott.

4. Attached hereto as Exhibit 2 is a true and correct copy of a March 11, 2019 letter from Jennifer Robbins, one of the attorneys for Mr. Lythcott.

5. Attached hereto as Exhibit 3 is a true and correct copy of a letter we sent to counsel for Mr. Lythcott and Gregg Walker on March 5, 2019.

6. Attached hereto as Exhibit 4 is a true and correct copy of a March 11, 2019 letter from Ellen Ahrens, one of the attorneys for Mr. Lythcott.

7. Attached hereto as Exhibit 5 is a true and correct copy of Mr. Lythcott’s May 17, 2019 non-disclosure agreement with the Estate.

8. Attached hereto as Exhibit 6 is a true and correct copy of an email sent by Mr. Lythcott on January 29, 2019.

9. Attached hereto as Exhibit 7 is a true and correct copy of a document entitled “Release Authorization Letter.”

10. Thus far, we have been able to identify only a portion of the individuals to whom Mr. Lythcott provided access to the data site on which he maintained confidential information that belongs to the Estate. Those individuals include [REDACTED]

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

**I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.**

Dated: March 15, 2019

/s/ Joseph J. Cassioppi  
Joseph J. Cassioppi

# Exhibit 1

**MADEL PA**

800 PENCE BUILDING  
800 HENNEPIN AVENUE  
MINNEAPOLIS, MINNESOTA 55403  
(612) 605-0630  
WWW.MADELLAW.COM

ELLEN M. AHRENS  
DIRECT DIAL  
(612) 605-0641  
EAHRENS@MADELLAW.COM

March 7, 2019

Joseph J. Cassioppi  
jcassioppi@fredlaw.com

*Via Email*

Emily Unger  
eunger@fredlaw.com

Re: *In re the Estate of Prince Rogers Nelson*  
Court File No. 10-PR-16-46

Dear Joe and Emily,

In compliance with the Court's February 13, 2019 Order Regarding Estate Confidential Information and consistent with our previous correspondence, I am sending to you via email a link to what we hope will be our final production on behalf of Michael Lythcott.

As we have discussed by phone on February 25 and via email on February 28, we have now removed non-responsive documents as well as documents based on additional privilege terms. Thus, this production contains 5,346 documents. For this reason, our production today supersedes and replaces our February 25 production. We will send you a letter requesting the claw-back of specific privileged documents pursuant to Minn. R. Civ. P. 26.02(f)(2) as soon as we have identified them. Additionally, for your ease of reference, we anticipate being able to provide information that will show which documents were produced in both productions.

There are 9,647 privileged documents that were withheld. We have determined that it is cost prohibitive to do a privilege log. Further, because of this volume, it would have been impossible for us to create a privilege log and maintain our timeline to provide this production to you. Our vendor estimates that reviewing and coding these documents in order to create a privilege log would cost between \$9,400 and \$18,800. The reason there is such a broad range is because we do not know the rate at which a team of document reviewers can substantively review the documents. If you continue to believe that a privilege log is necessary, then Comerica will have to bear this expense. We are, however, willing to work with you on the most cost-effective manner to provide you with the information that you need regarding the privileged documents.

March 7, 2019

*Via email*

---

As you are aware, these documents are confidential and should not be disclosed. Consistent with Alfred Jackson and Omarr Baker's motion to amend the February 13, 2019 Order, we request that you limit the disclosure of these documents to the attorneys in your firm working on this matter, i.e. outside attorneys for Comerica, and we request that the use of these documents be limited to determining whether Mr. Lythcott or Mr. Walker violated their non-disclosure agreement with the Estate. Further, we reserve our right to claw-back any erroneously produced documents pursuant to Minn. R. Civ. P. 26.02(f)(2).

Sincerely,

*s/ Ellen M. Ahrens*

Ellen M. Ahrens

# Exhibit 2

**MADEL PA**

800 PENCE BUILDING  
800 HENNEPIN AVENUE  
MINNEAPOLIS, MINNESOTA 55403  
(612) 605-0630  
WWW.MADELLAW.COM

JENNIFER M. ROBBINS  
DIRECT DIAL  
(612) 605-0662  
JROBBINS@MADELLAW.COM

March 11, 2019

Joseph J. Cassioppi  
jcassioppi@fredlaw.com

*Via Email*

Re: *In re the Estate of Prince Rogers Nelson*  
Court File No. 10-PR-16-646

Dear Joe,

As you will recall, on March 7, 2019, we made a production to you replacing the February 25 production and explained in the cover letter that the March 7 production removed not only non-responsive documents, but also documents based on additional privilege terms. We alerted you to our intention to follow up with a claw-back letter as soon as privileged documents were specifically identified. Today we received confirmation of the specific documents, or families, that hit on privilege terms and write to claw them back. The following 1,007 documents are identified by DocID and were withheld from the March 7 production on the basis of privilege.

Accordingly, pursuant to Minn. R. Civ. P. 26.02(f)(2) and our previous communications with you, we hereby demand that no later than close of business Friday, March 15, you return or certify that you have destroyed each of the documents listed below and any copies you have of such documents. We also renew our instruction to replace the February 25 production (that included these privileged documents) with the March 7 production.

To the extent any of these documents were filed by you with the Court in support of any pending motion (for example, your contempt motion against Mr. Walker), we further demand that you take all necessary action to correct such filings and withdraw any privileged documents from the record.

1702	1946	2819	3134	3464	3473	3683	3861	4888	5942	6674	6844
1703	1947	2822	3135	3465	3474	3684	4079	5192	6286	6678	6869
1704	1948	2866	3419	3466	3475	3685	4080	5193	6404	6679	6926
1705	2155	2867	3458	3467	3476	3686	4293	5256	6405	6680	6955
1752	2156	2868	3459	3468	3477	3687	4294	5270	6406	6681	6956
1753	2327	2869	3460	3469	3478	3857	4875	5279	6563	6682	6957
1943	2328	2870	3461	3470	3479	3858	4876	5551	6564	6683	6961
1944	2329	2871	3462	3471	3679	3859	4877	5815	6570	6686	6962
1945	2817	3133	3463	3472	3682	3860	4887	5816	6618	6839	7018

March 11, 2019

*Via email*

7019	7891	9326	9704	11156	11757	12874	13439	14535	14876	15839	16409
7020	7892	9355	9837	11157	11758	12875	13456	14536	14877	15840	16410
7021	7908	9356	10028	11184	11759	12876	13457	14537	14878	15841	16411
7031	7909	9357	10029	11185	11760	12877	13458	14538	14879	15842	16412
7032	8054	9358	10056	11186	11761	12878	13459	14574	14880	15843	16449
7038	8110	9402	10057	11187	11831	12880	13460	14580	14882	15844	16480
7117	8172	9403	10058	11188	11832	12882	13461	14581	14883	15845	16481
7118	8173	9404	10142	11189	11833	12911	13501	14582	14934	15846	16482
7166	8174	9405	10145	11190	11834	12917	13502	14583	14935	15847	16483
7200	8175	9406	10146	11191	11835	12918	13503	14584	15013	15848	16484
7229	8176	9418	10147	11192	11836	12919	13559	14585	15014	15849	16485
7230	8192	9419	10150	11193	11837	12929	13612	14586	15015	15850	16486
7456	8193	9420	10151	11194	11838	12930	13613	14607	15019	15851	16487
7457	8194	9459	10152	11195	11908	13033	13614	14608	15146	15852	16488
7508	8204	9489	10153	11196	11910	13034	13615	14609	15161	15853	16489
7525	8289	9490	10160	11197	11911	13035	13616	14647	15162	15854	16511
7526	8290	9491	10305	11198	11912	13036	13626	14648	15163	15855	16534
7527	8291	9492	10306	11199	11913	13040	13732	14649	15164	15856	16535
7528	8292	9493	10307	11200	11914	13041	13818	14660	15165	15857	16536
7529	8327	9494	10308	11201	11929	13042	13819	14661	15166	15858	16537
7532	8328	9495	10309	11202	11930	13043	13907	14692	15190	15859	16546
7533	8329	9496	10310	11203	11932	13044	13908	14693	15191	15860	16708
7534	8330	9497	10311	11204	11933	13059	13909	14694	15192	15866	16709
7535	8331	9498	10312	11205	12060	13060	14001	14695	15193	16027	16710
7536	8332	9499	10328	11206	12061	13114	14002	14699	15194	16028	16711
7537	8333	9500	10329	11207	12062	13199	14003	14700	15226	16029	16712
7538	8342	9501	10350	11287	12063	13200	14074	14701	15285	16030	16713
7670	8453	9502	10386	11288	12064	13201	14122	14702	15286	16031	16797
7671	8454	9503	10501	11358	12065	13202	14123	14714	15287	16032	16798
7672	8458	9504	10502	11427	12066	13203	14124	14716	15290	16033	16799
7673	8621	9505	10503	11434	12089	13204	14125	14717	15291	16034	16800
7674	8628	9506	10504	11436	12090	13205	14126	14718	15292	16035	16801
7675	8629	9507	10521	11437	12427	13206	14139	14751	15293	16036	16802
7676	8630	9508	10522	11493	12428	13207	14161	14752	15294	16037	16803
7677	8631	9509	10565	11498	12429	13208	14162	14753	15295	16169	16804
7679	8813	9510	10566	11580	12440	13209	14198	14754	15296	16170	16853
7734	8814	9516	10567	11581	12441	13210	14199	14755	15305	16203	16905
7735	8816	9517	10568	11599	12446	13211	14296	14756	15306	16204	16906
7736	8817	9518	10569	11635	12447	13212	14312	14781	15307	16205	16907
7737	8818	9537	10677	11711	12448	13213	14313	14782	15308	16206	16908
7738	8854	9553	10727	11744	12640	13214	14319	14783	15309	16207	16909
7739	9120	9554	10950	11745	12643	13215	14331	14784	15556	16226	16910
7740	9249	9555	10951	11746	12708	13216	14350	14800	15557	16227	17078
7741	9250	9556	10983	11747	12709	13217	14351	14801	15569	16228	17083
7742	9251	9557	10984	11748	12733	13218	14353	14817	15594	16306	17158
7743	9252	9568	10985	11749	12734	13219	14387	14818	15595	16307	17159
7744	9253	9569	10986	11750	12735	13220	14388	14819	15596	16308	17160
7745	9264	9570	10987	11751	12737	13221	14389	14820	15597	16309	17161
7746	9265	9571	10988	11752	12738	13222	14418	14848	15732	16334	17209
7747	9322	9676	10989	11753	12739	13223	14422	14849	15733	16335	17210
7748	9323	9677	11151	11754	12871	13380	14423	14862	15817	16336	17211
7870	9324	9678	11152	11755	12872	13383	14424	14874	15818	16337	17265
7890	9325	9695	11153	11756	12873	13438	14534	14875	15819	16408	17323

March 11, 2019

*Via email*


---

17324	18029	18380	18837	19448	19827	20570	20679	21069	21446	21635	22007
17325	18030	18428	18838	19452	19828	20571	20694	21070	21447	21636	22008
17442	18031	18429	18843	19453	19829	20572	20695	21145	21448	21637	22074
17443	18142	18430	18844	19454	19832	20573	20727	21146	21449	21638	22075
17501	18215	18431	18960	19455	19833	20574	20728	21147	21450	21639	22093
17502	18216	18432	18961	19456	20048	20575	20729	21148	21451	21654	22094
17505	18217	18433	18962	19457	20139	20576	20730	21149	21452	21655	22095
17506	18218	18434	18963	19458	20221	20577	20731	21150	21453	21656	22096
17507	18219	18447	18964	19459	20222	20578	20732	21151	21489	21657	22097
17508	18220	18448	18965	19460	20223	20579	20733	21152	21490	21830	22124
17509	18221	18449	18966	19523	20301	20580	20734	21153	21562	21831	22163
17510	18222	18450	18967	19581	20302	20581	20735	21154	21563	21832	22266
17511	18223	18451	18982	19582	20396	20582	20736	21155	21564	21833	22267
17637	18224	18452	18984	19583	20397	20583	20996	21169	21565	21834	22343
17638	18225	18549	19047	19584	20398	20584	20997	21170	21566	21844	22345
17639	18226	18791	19048	19585	20526	20585	21021	21171	21567	22000	22348
17804	18372	18792	19172	19596	20527	20586	21022	21290	21568	22001	22412
17905	18375	18809	19173	19597	20528	20587	21028	21291	21569	22002	22459
17928	18376	18810	19174	19598	20566	20588	21029	21292	21592	22003	22460
18022	18377	18834	19445	19599	20567	20589	21030	21370	21596	22004	22500
18023	18378	18835	19446	19600	20568	20590	21031	21444	21628	22005	22501
18024	18379	18836	19447	19826	20569	20591	21032	21445	21634	22006	

If you have any questions, we will make ourselves available for a phone call at a mutually agreeable time. Please note that members of our team are traveling this week such that a conference call may not be possible until next week.

Sincerely,

*/s Jennifer M. Robbins*

Jennifer M. Robbins

# **Exhibit 3**

# **[Redacted]**

# Fredrikson

& BYRON, P.A.

March 5, 2019

**VIA EMAIL**

Steven H. Silton, Esq.  
Cozen O'Connor  
33 South Sixth Street, Suite 3800  
Minneapolis, MN 55402

Christopher W. Madel, Esq.  
Madel PA  
800 Pence Building  
800 Hennepin Ave.  
Minneapolis, MN 55403

Re: *In re the Estate of Prince Rogers Nelson*  
Court File No. 10-PR-16-46

**Counsel:**

Although we have, to this point, conducted only a preliminary review of the records produced thus far by Mr. Lythcott in response to the Court's February 13, 2019 Order, that review has confirmed that your clients committed numerous serious violations of both their non-disclosure agreements with the Estate, as well as their confidentiality obligations under multiple Court Orders (including, without limitation, the Orders dated March 22, 2017, June 15, 2017, May 15, 2018 and May 25, 2018).

Messrs. Walker and Lythcott's improper conduct included providing access to confidential Estate records [REDACTED] and otherwise sending confidential information to third-parties without notice to, or the authorization of, the Court or the Estate. The [REDACTED]

Your clients' unauthorized disclosure of confidential Estate records [REDACTED]

Attorneys & Advisors  
main 612.492.7000  
fax 612.492.7077  
www.fredlaw.com

Fredrikson & Byron, P.A.  
200 South Sixth Street, Suite 4000  
Minneapolis, Minnesota  
55402-1425

March 5, 2019

Page 2

[REDACTED]

To attempt to mitigate the damage done by your clients, we demand that they immediately:

- Disable all third-party access to the site (but not modify, alter, or otherwise destroy any of the data associated with the site, which must be preserved pending resolution of your clients' violation of their confidentiality obligations);
- Provide us a log from the data site showing all individuals who downloaded information from the site (rather than the access log previously provided), as well as what information was downloaded;
- Provide contact information for all individuals to whom confidential Estate information was provided by your clients, along with what information they were provided;
- Preserve all information and communications related to the Estate, including, but not limited to hard-copy records, emails, text messages, social-networking messages, and voicemails; and
- Notify all third-parties in writing to whom they provided any confidential Estate information (with a copy to us) that your clients were not authorized to provide access to Estate confidential information (enclosing the Court's February 13, 2019 Order), and demanding that the third-parties destroy all confidential information they have in their possession, as well as disclose to whom the third-parties themselves provided any Estate confidential information.

Please confirm by Thursday, March 7 at noon that your clients will take the actions set forth in this letter.

The Estate reserves all rights.

Regards,

*/s/ Joseph J. Cassioppi*

Joseph J. Cassioppi

Direct Dial: 612.492.7414

Email: [jcassioppi@fredlaw.com](mailto:jcassioppi@fredlaw.com)

CC: Mark W. Greiner, Esq.

66123440.1

# **Exhibit 4**

# **[Redacted]**

**MADEL** PA

800 PENCE BUILDING  
800 HENNEPIN AVENUE  
MINNEAPOLIS, MINNESOTA 55403  
(612) 605-0630  
WWW.MADELLAW.COM

ELLEN M. AHRENS  
DIRECT DIAL  
(612) 605-0641  
EAHRENS@MADELLAW.COM

March 11, 2019

Joseph J. Cassioppi  
jcassioppi@fredlaw.com

*Via Email*

Re: *In re the Estate of Prince Rogers Nelson*  
Court File No. 10-PR-16-646

Dear Joe,

I write in response to your March 5, 2019 letter regarding our client Michael Lythcott. We dispute the mischaracterizations in your letter, including, for example, your ongoing, inaccurate assertions that Mr. Lythcott has somehow violated his nondisclosure agreement (“NDA”) with the Estate. The thousands of documents that Mr. Lythcott has produced show the opposite. We further dispute that Mr. Lythcott is required to take action in response to any of the requests you made in your March 5 letter because Mr. Lythcott is not a party to the above-referenced action, and you have not served a subpoena on him for such information. For this same reason, we object to your so-called “demands” of Mr. Lythcott in the absence of any such subpoena.

In yet another showing of good faith, however, we respond to your requests as indicated below.

Request No. 1: Disable all third-party access to the site (but not modify, alter, or otherwise destroy any of the data associated with the site, which must be preserved pending resolution of your clients’ violation of their confidentiality obligations).

Response: According to the third-party vendor, the site was taken down on March 6.

Request No. 2: Provide us a log from the data site showing all individuals who downloaded information from the site (rather than the access log previously provided), as well as what information was downloaded.

Response: Because the site has already been taken down, we no longer have access to the site.

Request No. 3: Provide contact information for all individuals to whom confidential Estate information was provided by your clients, along with what information they were provided.

March 11, 2019

*Via email*

Response: This information is available to you in the production we provided on March 7, 2019. Therefore, in accordance with, *inter alia*, Minn. R. Civ. P. 33.03 and 34.02(c)(5)(C), Mr. Lythcott objects to your request for the same information in a different format and respectfully refers you to the production dated March 7, 2019, from which the answer to your question may be derived or ascertained.

Request No. 4: Preserve all information and communications related to the Estate, including, but not limited to hard-copy records, emails, text messages, social-networking messages, and voicemails.

Response: Our client will continue to preserve this information. We request that Comerica and its counsel preserve the same information.

Request No. 5: Notify all third-parties in writing to whom they provided any confidential Estate information (with a copy to us) that your clients were not authorized to provide access to Estate confidential information (enclosing the Court's February 13, 2019 Order), and demanding that the third-parties destroy all confidential information they have in their possession, as well as disclose to whom the third-parties themselves provided any Estate confidential information.

Response: We have already notified third parties of the Court's February 13, 2019 Order. We will request that third [REDACTED] destroy all confidential information in their possession and notify us of any disclosures that they made. We will not, however, advise third parties that Mr. Lythcott was "not authorized to provide access to Estate confidential information." As we and other parties have explained, the NDA between Mr. Lythcott and Estate specifically contemplated and allowed these types of disclosures when precautions—such as those taken by Mr. Lythcott—were taken to protect confidentiality.

Mr. Lythcott looks forward to a full and fair discussion of the proposed transaction and hopes that Comerica will not continue to waste the Estate's resources on this issue.

Sincerely,

*s/ Ellen M. Ahrens*

Ellen M. Ahrens

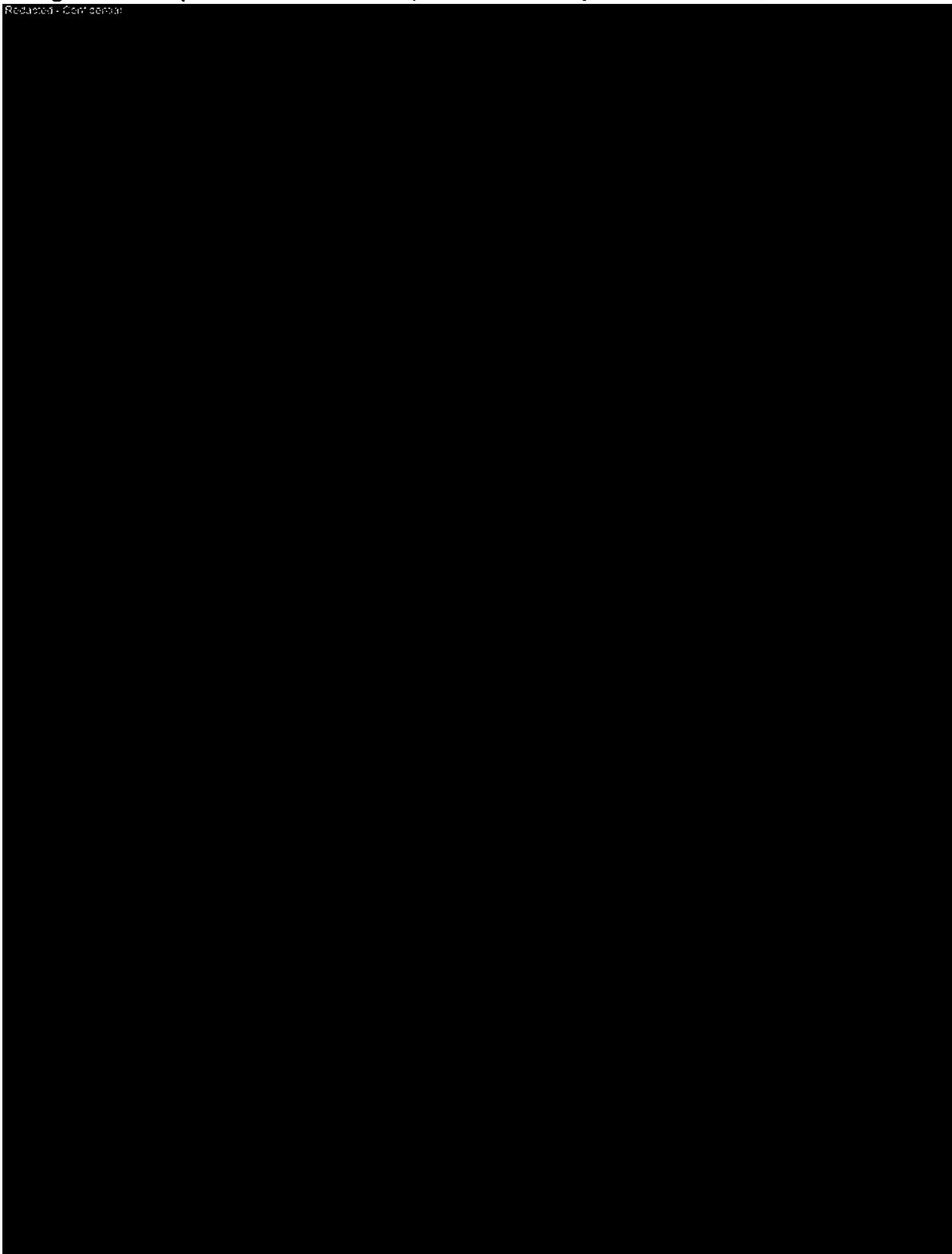
# **Exhibit 5**

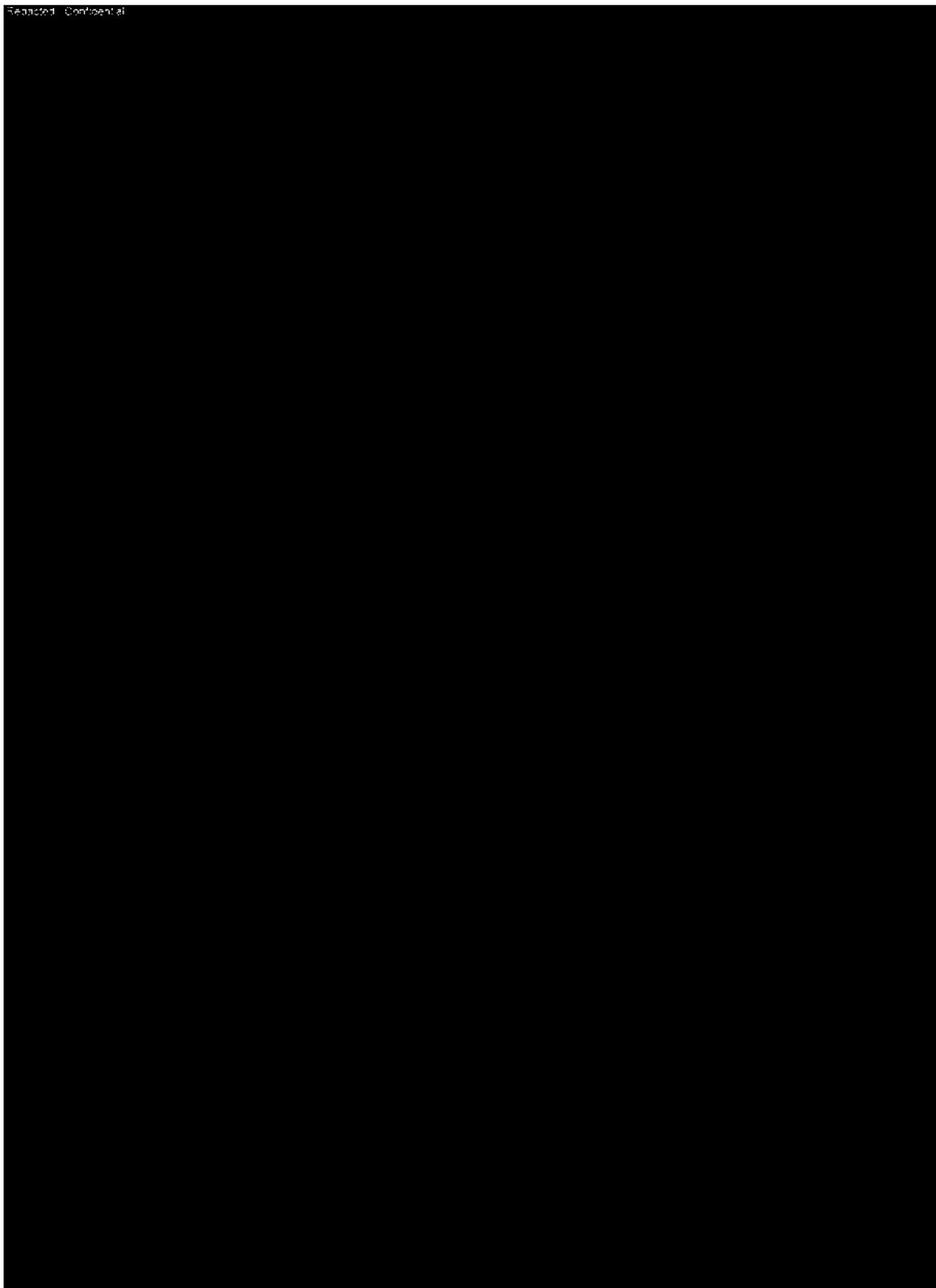
# **[Redacted]**

**NON-DISCLOSURE AGREEMENT**

THIS AGREEMENT is made and entered into as of May 17, 2017 by and between Comerica Bank & Trust N.A., as Personal Representative of the Estate of Prince Rogers Nelson (hereinafter "Comerica"), and Michael Lythcott (the "Recipient"), regarding

Redacted - Confidential





2.

3

Redacted - Confidential

4.

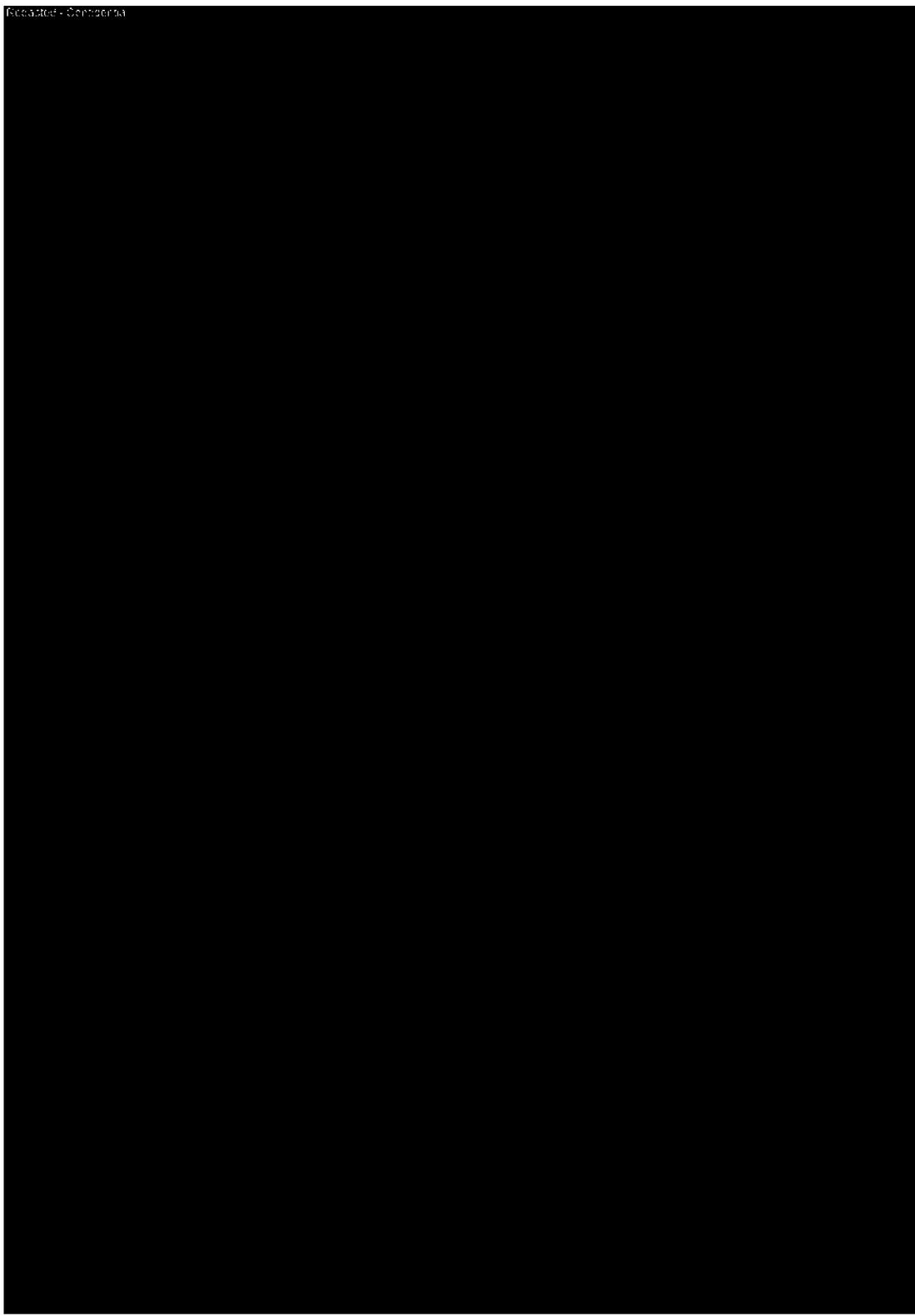
5.

6.

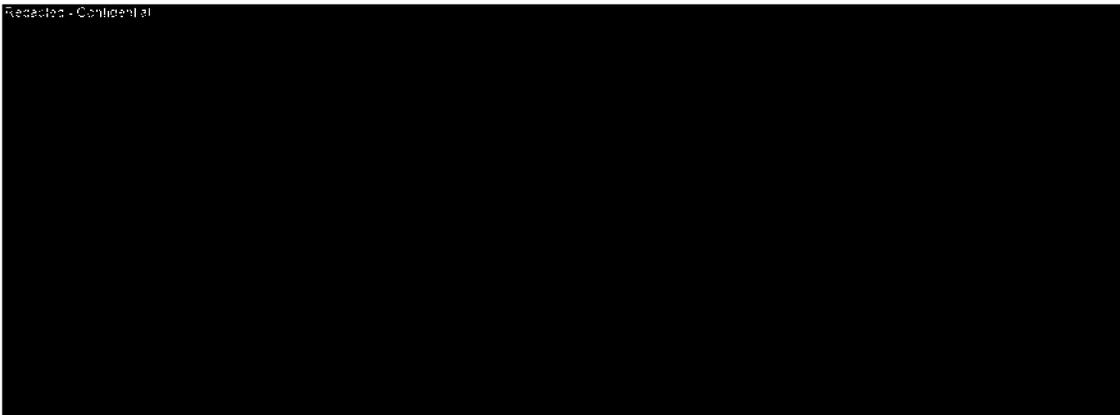
7.

8.

- 9.
- 10.
- 11.
- 12.
- 13.
- 14.
- 15.



16.



17.

*Signature Page Follows*

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the date listed above.

**ESTATE OF PRINCE ROGERS  
NELSON**

By: COMERICA BANK & TRUST  
N.A., Personal Representative

Angela Lythcott  
By: Angela Lythcott  
Its: Vice President

Michael Lythcott  
Michael Lythcott

61424353\_1.docx

*Signature Page to Non-Disclosure Agreement*

# **Exhibit 6**

# **[Redacted]**

**From:** Michael Lythcott <michael@lythcott.com>

Filed in District Court  
State of Minnesota  
3/15/2019 5:13 PM

**Sent:** Tuesday, January 29, 2019 12:26 AM

Re: [REDACTED]

Thank you

—

Sent from iPhone please excuse any typo's I have wide fingers and a hair trigger send button

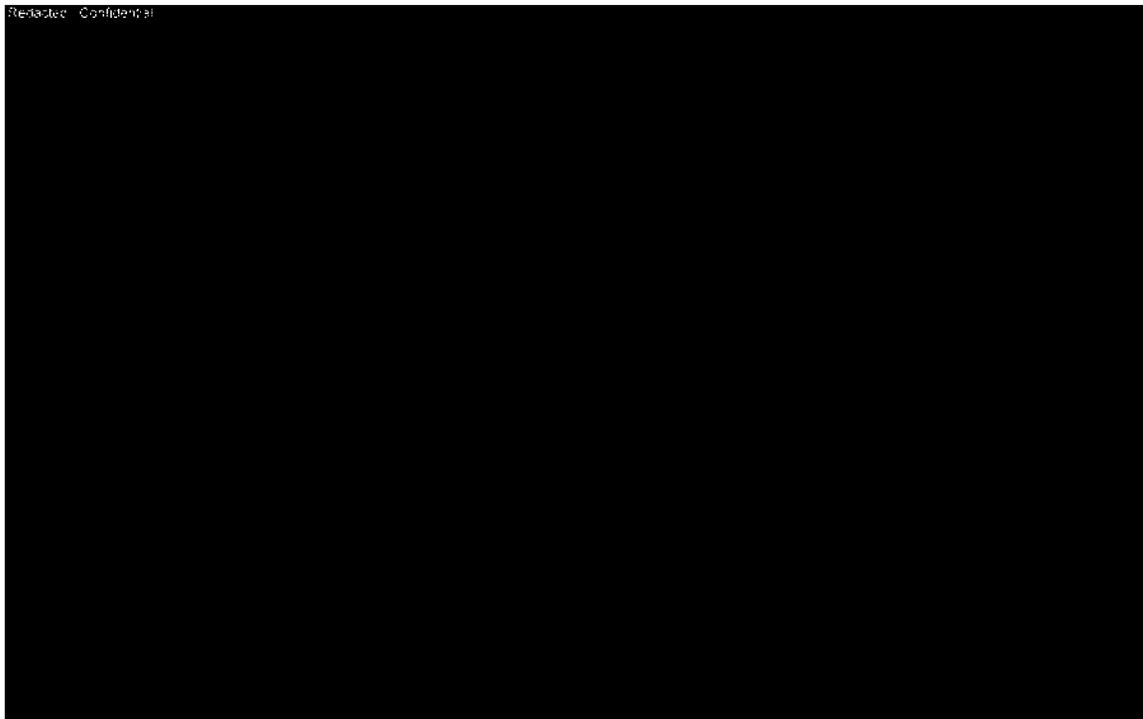
# **Exhibit 7**

# **[Redacted]**

**RELEASE AUTHORIZATION LETTER**

**DATE: February 11, 2019**

Redacted - Confidential



Sincerely,



Michael Lythcott

Authorized Representative of the Managing Member of TOA Family, LLC

**SCHEDULE A**

**SCHEDULE OF AUTHORIZED PAYMENTS FROM IOLA ACCOUNT**

(February 6, 2019)

<b>Payee</b>	<b>Wire Instructions</b>	<b>Amount</b>
Michael Lythcott	Redacted - Confidential	