



kb

Re: Bank of America HELOC

1 message

kb

Fri, Jul 24, 2015 at 3:53 PM

To: "Tinkler, David K - Legal" <david.k.tinkler@bankofamerica.com>

Hello David -

Well, that's a much more coherent tone. It's new. I don't hear the "befuddled" part of you anymore nor the other tweak of the gamer that you presented prior.

I love this statement David...

"It would make no sense to deliberately lie about that in the context of our later communication, as nothing was to be gained by that."

Wow. The lie came BEFORE the later context, thus, if I had not pushed back there would have been no later communication, and the mis-statement would have been powerful.

This is now the SECOND TIME you have lost track of the present, as it relates to past and future, with the first being related to the status of my depreciation, as communicated to you in the email you "forgot". When you mix verbs like "was" with "to be gained" back to back, you are mixing past with future in very tight proximity, and I'm feeling you may have already lost a grip on time as a continuum.

You are either continuing to consciously cloud up the past, present or future intentionally for some gain... or you are slipping... neither is good.

=== FORGETFUL, LIAR or OTHER... ===

You and I were/are engaged in a dialogue that is affecting me personally by a payment increase from \$900/month to \$2600/month. A 1700/month increase.

Two years ago I shifted into a "working retirement" to pursue my passion for computer programming. The money I'm being forced to cough up was/is part of my "fixed income" that I still must do some sales and passive work to earn weekly. I am not a greedy man, so I do not have large coffers. Pursing my passion was/is far more important to me than money, but money is something I like to have to meet my basic needs. You, and the execs I engaged with, and who ever made that decision to arbitrarily deny renewals, and whoever wrote those Program Guidelines have had a significant and stressful affect on my fixed income, and I'm just one of about 750,000 BofA HELOC consumers.

PNC acknowledge their "whonky" repayment term terms by offering amortized repayment terms. Why would they have done that? Oh, I know, because they too realized those terms were inappropriate for pushes into the repayment period.

In order to accept your steadfast dedication to forgetfulness, I would then have to accept that reality that my personal situation, which is of utmost importance to me, was so irrelevant to you to that you forgot why you were making me an extension offer WITH a non-disclosure agreement to start with. And THAT is a tough or tougher pill to swallow than forgetfulness... in my book. THAT is what I might call Egocentric to the extent to the extent that you are lost in your own universe.

You had the option not to respond, and you are no more endearing to me now when we started, so how would like to me to remember you?

Please pick one option below. You can select multiple if applicable:

Bank of America HELOC

- a) a liar
- b) egocentric to the extent of being lost in your own universe (oblivious to your social dealings)
- c) incompetent

I just added option c because you don't seem to realize that with each response, you just keep setting another trap for yourself. It's not pretty from this side of the fiber that connects us.

I will remember you as you wish, but forgetful is not an option.

kb

On Fri, Jul 24, 2015 at 3:07 PM, Tinkler, David K - Legal <david.k.tinkler@bankofamerica.com> wrote:

Got it, kb

I may respond further at a later date, but I will say that I don't like being called a liar. The truth is that I had forgotten about the earlier email. It would make no sense to deliberately lie about that in the context of our later communication, as nothing was to be gained by that. Call me a duck if you wish, but you are mistaken.

David

David K. Tinkler
Assistant General Counsel
Legal Department-Bank of America
Mail Code: NC1-027-20-5
Hearst Tower, 214 N. Tryon Street, Charlotte, NC 28255
Phone: 980-387-5880 Fax: 704-208-3122
david.k.tinkler@bankofamerica.com

From: kb
Sent: Friday, July 24, 2015 3:53 PM
To: Tinkler, David K - Legal
Subject: Re: Bank of America HELOC

David --

When I'm in a tough situation or a conflicting situation, I use free writing to get to the root of how I feel. Here's what came out.

=== The Offer ===

I don't feel comfortable accepting an offer for an extension with a non-disclosure agreement. You all offered an application process, with outward implications of an earn-able benefit of a reduced payment. With the documentation I provided, I should have earned that benefit had the Program Guidelines been written with the risk-reward model and/or "fairness" in mind. But they weren't, and the net result was that I didn't get the extension (which was in line with your intentions when creating the Program Guidelines). Accepting something now that I did not earn per the Program Guidelines as you all established them is conflicting to me. I like to earn that which I receive, and I don't like to take that which I did not earn.

== Program Guidelines ==

Regarding your befuddlement on "this situation". My situation and this situation were/are one in the same. Your program guidelines are not written with "fairness" nor the "risk-reward model" in mind, and frankly, agreements with a renewal clause but without stated requirements for earning a renewal are flawed. It's my belief that the aggressive non-amortizing repayment terms are a carry over from a time when these terms would have only kicked-in in the case of a true "default" situation (in other words, they were never intended to be voluntarily experienced nor experienced by an arbitrary decision not to exercise a renewal).

That's the only thing that makes sense with regards to the outlandish repayment terms. Nothing else makes sense. We have no 10 year arms with such outlandish repayment terms... This HELOC product is a hybrid product caught between the transition from a pure secure credit card product where renewals were cursory and a not so transparent mortgage product, with repayment terms that are inconsistent with mortgage products. As attorneys you all may think this is not obvious, but to finance folks, this is like reading the funny pages.

You and I both know neither "fairness" nor "transparency" nor "truly risk based criteria" were promised with regards to the application process, so in that regard, by creating nonsensical Program Guidelines that can be used to deny any and all requests, you all have likely not broken any civil or criminal codes. In my mind, you all have broken a social code, an ethics kind of thing, but I realize that "most" corporate execs and ALL Corporate Attorneys and many others in positions of power laugh in the face of "ethics". I also realize that most in our country have "given up" on ethics for any sort of social guidance system. Most wish that ethics played a far greater role in our lives and decision processes, but the reality is that in our current social setting, ethics are a powerless concept.

I wish more folks understood Karma and realized it wasn't an optional thing... that it's firing on all of us 24/7/365 for all the positive and negative stuff we do. But that's still a stretch for many this day in age. It's amazing to me how people who don't respond properly to stress pass it on into their families and don't recognize the connection between some of their familial stresses and what they are doing at work. Admittedly, it's hard to see, because often times the familial stress isn't overtly related to one who's earning it all for the family... Maybe someday all that will be more commonly recognized and accepted.

== Renewal Clauses -- Missing Product in Offerings ==

It's my understanding that agreements after mine might have had no renewal clauses at all, and that, to me, that completes the push from a credit card product to a mortgage product, except that the repayment terms should be more in line with something like a 20 year amortized, and I'm doubting you all have made that change. That shift to a mortgage product also leaves the marketplace void of a true secured credit card option with a renewal clause that ensures me an earn-able renewal opportunity, which was the beneficial product to me to start with. Without a product that I can be confident I can renew, I as a small businessman have zero options in the marketplace for a capital asset account that I actually can have some control over at renewal time, and that creates an unbelievable risk for me as a small business person that I'd need to face each renewal period. I guess I'm making an assumption that all of the banks have made this shift when that is not in fact the case. I guess I need to look around before saying more on that.. maybe this is just a BofA shift.

Please note, I didn't just chase you all for the isolated event of my renewal and/or the faux extension process. I chased this hard because you all set me up in product that was used to shut me down during the mortgage crash. I was in good position to wade out the crash, and I was shut down with a freeze on my HELOC as was every other consumer I know of. I had 30 days to get you all to change course or I was going into default on everything I had, because you cut me off to cash that I needed to float the tough times.

I wrote the most passionate 2 page letter I've ever written, assuming it would fall on deaf ears, and magically, without even a phone call, I logged in to online banking a week later and discovered my HELOC had gotten unlocked, when everyone else's stayed locked. I drew the line completely and have been paying interest on cash for 6 years due to my lack of trust in you all enough to pay down my line when I had excess cash. I estimate you all have made about 20k in interest that I could have avoided had I trusted you all as my bank. 20k of my money gone for lack of trust... when I "probably" would have been fine... but... I couldn't afford to risk it.

Just getting that line opened back up was a miracle of sorts that no others that I know of pulled off, but at that point I realized the power you all had to shut down my capital management account, and as a small businessman that was terrifying. It's at that point that I started talking with some branch employees and realized the peril I could be in come renewal time. We walked thru this entire scenario in 2009-ish, and we agreed that if I got jam-bed into the renewal, it was going to be due to an arbitrary renewal decision.

I had hoped you all would not make the deviant decision, but you did. Thankfully, I had years to change the focus of my work away from anything that required a capital account, and frankly, it wasn't just a choice, the economy didn't support the work I did that required it, so everything pushed me in a different direction, so the BofA impact is only part of my direction, BUT I am having to rethink everything about how I do small business without a reasonable solution for a capital/cash management account and a bank that I can trust.

In fairness, I haven't scoured your competitors. For all I know, there are lots of secured credit card options out there using a home's equity as collateral, with valid and significant renewal options that have clauses for increasing and decreasing line values and/or interest rates to adjust for unsecured portions of debt. If they don't exist, they sure should.

I have an 837 credit score. I was NEVER a risk to any of you from default on that loan or otherwise. I just wanted to play in my little world of small business and you all really messed up my sandbox. BUT... life is about making lemonade from lemons. This is just another 55 gallon drum full to add to the other drums I've made in the past.

=== Forgetfulness ===

To set the record straight between you and I personally, I don't believe your apology regarding your "forgetfulness" was sincere nor truthful. My response to your initial email was powerful, too powerful for

someone like you to forget. In it I outlined 3 options that I'd have to consider if you did not come forth in a transparent manner.

The impetus for this email string, which started with an offer, is not something a powerful Attorney such as yourself forgets. I'm going to call a duck a duck instead of a forgetful man and move on.

On a side note, I detest the "incompetent" game many corporate attorneys and family attorneys engage in regularly to use "confusion" as a defensive strategy. You all, as attorneys, represent some of the most intellectually superior individuals in our society, and the level to which some of you will consciously lower yourselves for the sake of confusion and gamesmanship is not healthy. You do realize you can become that which you act out, correct? Be careful how long you spend in those contracted modes for sake of gamesmanship, because without much warning, that can actually become your reality.

=== My Options ===

I've now got to consider the three options i outlined (in the email you forgot we had), and decide whats best for myself. Ironically, I've been faced with situations like this a few times before in my life. When I felt like building a website and sharing my story was the appropriate thing to do, I shared it privately with the parties involved to allow them to decide if it was something they wanted me to share with a broader audience. In most situations it was not, and in those situations, people made some changes for the good of all, without all knowing the changes were made, and we agreed to part ways.

When we parted, there were no written non-disclosures, just a joint understanding that my only interest was for positive change, and I'd have no reason to expose myself nor my participation in the changes if they were implemented. It made for a win-win, kind of thing. If I were to decide to build something, that's likely the path I'd take with you all, but frankly, our country's view on ethics is so screwed up, I'm not sure why I'd waste the time trying to teach old dogs new tricks.

=== My Personal Insurance Policy ===

David, I'm no dummy and I'm not naive. I realize everything I've shared in this email and others with you and all BofA execs could be/should be deemed by BofA Legal, BofA Investors and other interested parties as potentially "damaging" to the goal of continued investor satisfaction, profitability, bonuses and careers. I also fully realize that "damaging" things can happen to me or those close to me for writing the type of stuff I've shared with you.

For my own personal insurance, I have built a small website, that is currently private, that contains copies of all the emails we've had together. The link to that URL is in the possession of 6 associates of mine. I trust my associates implicitly. They will NEVER release that info unless I instruct them to or unless something negative comes my way or the way of anyone or anything close to me. I take everything I've shared with you very, very seriously and I have since the very first denial I received related to your Program Guidelines.

Please don't think for even one second I've underestimated the potential consequences of my writings. I've had insurance out on myself from day one, I've just up the policy, and I'm just sharing that with you now, for clarity, to be sure you do NOT assume I'm more naive than I might appear otherwise.

=== Karma ===

For what it's worth, I do believe in Karma. If I select option 1, and do nothing more about this, things will balance out for me down the road financially and energetically. It just works that way. Furthermore, everyone

involved in this sticky situation has "already earned" more poo than I could ever dream to sling by myself, you all just haven't realized it yet. So in that reality, this really isn't a big deal that I need to address personally. And that is what is pushing me to slip quietly out of the picture.

If I decide I want to engage you all any further on this matter, I'll reach out to you personally. If I can't get you for some reason, I'll go thru the execs to get back to someone else at Legal. As a legal department, you should not see any of this on the news or in the media, unless it comes from someone else totally unrelated to me or my experience, and I mean that sincerely. That's not a bullshit line that implies I'm going to pass it to someone else to share. I do all my own dirty work personally, I do not ask others to do it for me.

=== You can rescind offer / Offer expired ===

I respect the deadline on your offer but I need to pass on it. I am acknowledging that the offer you made for the extension is now off the table / has expired. Thank you for the consideration.

Please extend me the courtesy of a reply to confirm receipt of this email to close the loop on this matter. All I'm looking for/expecting is a "got it" type of reply. If you want to comment on the info above feel free to. I am not sure there's really much more to discuss, but you've added some nice dialogue and made me think about some things I wouldn't have thought about, and I've appreciated some new perspective from that, so please simply confirm receipt as you wish.

Have a good weekend and best of luck to you moving forward.

Regards

kb

On Fri, Jul 17, 2015 at 12:15 PM, kb > wrote:

Hello David --

- Apology for memory lapse noted. While it's mind blowing for me to think such a relevant email slipped off your radar, who am I to quibble over a small slip since we are now on proper personal terms.
- This situation >> "baffled" Well, I didn't climbing thru four levels of VPs to get to you because of some math errors, but I'm ok with your baffled position for now. Once I make a decision on my response I'll clear that up then.
- Maybe someday we can have a conversation about commerce. I think you'd find my perspective on it pretty interesting.
- Propriety vs Proprietary -- I have to tell you... that was a Freudian slip. I read 'propriety' and meant to look it up to make sure I knew what you were referring to, but then forgot to do that when I made my response. I got hooked into the 'proprietary' thought process because my entire beef with BofA was related to the lack of willingness of yourself and 4 VPs to put those 'proper' Program Guidelines in writing for me for my records. Things that most people view as 'proprietary' are things they don't typically like sharing in writing. I appreciate the correction... I've noted it.. I get it... thanks for the vocab lesson, as I did misread. I must admit though, I find my Freudian slip rather ironic and comical, but maybe appropriate too.

I'll get my response out to you next week.

Have a good weekend.

Regards

kb

On Fri, Jul 17, 2015 at 12:00 PM, Tinkler, David K - Legal <david.k.tinkler@bankofamerica.com> wrote:

kb

My apologies. You are correct. We had exchanged an email earlier, but I honestly had forgotten about that.

As for "this situation", I have again read through your email from June 30 (now that you've reminded me about it) and I'm baffled as to what it is you want. We have agreed to give you exactly what you were arguing about for so long. It makes no sense to me for you to try to "snatch defeat from the jaws of victory" by not accepting that offer.

With respect to the issue of "commerce", that's interesting, since my niece's speech specifically addressed the effect on commerce if the flag were to remain.

Note the distinction between "propriety" (as used in my message) and "proprietary" (as used in your response). My comment about "propriety" was a statement that we view our underwriting guidelines as proper. I never claimed that those guidelines were "proprietary".

I hope your weekend is good as well.

David

David K. Tinkler
Assistant General Counsel
Legal Department-Bank of America
Mail Code: NC1-027-20-5
Hearst Tower, 214 N. Tryon Street, Charlotte, NC 28255

From: kb
Sent: Friday, July 17, 2015 2:07 PM
To: Tinkler, David K - Legal
Subject: Re: Bank of America HELOC

Well HELLO David!

- **It's nice to know we have a connection that goes far more than business wrangling!** A [redacted] connection.. [redacted] no less. That's very cool.
- [redacted] **has been dear to me for various reasons, but most notably for synchronicity.** When I meet someone from [redacted] it is an affirmation for me that I'm in the right place at the right time, and those types of affirmations are very dear to me.
- **In the email string you denied we had in bullet 4, I stated.....**

"If you have a proposal that can resolve my situation and this situation I'm all ears"

You have made an offer that would in fact resolve my situation, but you attached a non-disclosure agreement to it, and I didn't see anything about addressing "this situation" and "this situation" refers to the larger picture I painted with all my emails to BofA execs and yourself (even though you don't want to own yours at this time...).

- **Your comment about the flag is fascinating for me, because I too have been watching that situation play out, but from a different perspective.** I don't look at slavery as being the catalyst to that war. For me, that war was about Commerce, and the inappropriate buying and selling of goods and services. Slavery was the product in that transaction that got the most attention, and everyone jumped on that as being the impetus for the war, but from my perspective, **it was COMMERCE that was at the core of the problem.** And from my perspective, the question I've been asking for years is why haven't we fixed the COMMERCE that caused that war? We've been waging wars with commerce every day since 1865...the civil war abolished slavery, but it never fixed the underlying COMMERCE problem that was the root cause. Have you ever thought of it from that perspective? I do agree with you on one item of significant importance... Some things do change for the better sometimes, it's just strange how some come about.
- **Propriety of underwriting guidelines** -- To Quote you.. -- "Suffice it to say that we disagree with you about the propriety of our underwriting guidelines, etc." - David, I have been involved in the origination and/or conversion of 60+ liens, mortgages, loans etc, and I have NEVER heard anyone claim their underwriting guidelines were 'proprietary'. And that is especially crazy in this case since I was initially told by a BofA VP that your Program Guidelines were OCC guidelines (government guidelines). How on earth do guidelines go from government guidelines to proprietary in the same conversation? I just don't understand how you don't see those types of statements as stepping in a pile of poo. We obviously have different perspective on this.

Please remember that words like "respectfully disagree" carry a specific connotation when used between two attorneys who have a shared understanding of written and unwritten rules of gamesmanship. Likewise, please remind yourself that I am NOT an attorney, so I might view respect slightly differently.

I have just TWO questions for you. I've made them as clear and simple as I can. YES or NO questions, so should be very easy... BUT please remember one thing.. we aren't in a courtroom parsing words... so the intent of the questions and the general implications of the answers are all that is really relevant...

- QUESTION 1: **Are you absolutely, positively, 100%, sure you want to make the claim that WE did NOT have an email string going prior to this one as you made claim to in item 4 ? YES or NO**
- QUESTION 2: **If I told you that your wife, your children, and your niece might see this email and your answer some day down the road, as well as the other email string that you claim does not exist, would that change your answer? YES or NO**

In my world, as a business guy, these questions represent the personal level that business/commerce needs to be done on to help ensure more appropriate etiquette and more cordial behavior.

I'm eagerly awaiting your response. If I don't get a response, I will still provide you with my response to your offer by next Friday as promised earlier.

Have a good weekend

kb

On Fri, Jul 17, 2015 at 9:02 AM, Tinkler, David K - Legal <david.k.tinkler@bankofamerica.com> wrote:

Mr. kb

Thanks for your note.

A few comments:

1. Please be assured that we haven't been distracted by your delayed response.
2. My objective in writing to follow up was to assure that we could complete timely documentation of an agreement before your draw period expiration date.
3. As for the lack of "sincerity" in my original message, I saw no need to engage in a point-by-point

rebuttal of the various claims in your earlier correspondence with other Bank employees. (Suffice it to say that we disagree with you about the propriety of our underwriting guidelines, etc.) Instead, I offered you exactly what I understood you to be requesting, and we provided an expeditious response (in your words, we “double timed” the response). That seems quite “sincere” to me.

4. Since I had not been a party to an email exchange with you, there was no email string to continue with you. While I appreciate your advice about email protocol, I respectfully disagree with your comment about the propriety of my message.

5. As for my presumptuousness in assuming that you received my earlier message: (a) you obviously did receive it, as you apologized for your delay in responding; (b) I did not receive an error message indicating that the message was not delivered, so it presumably was; and (c) given your demands for a timely response, I’m sure we would have heard back from you if you had not received the message. In any event, I don’t see any indication that your message below had any tracking either.

6. Thanks for taking the time to provide your thoughts on time.

I’m not sure what else to say. Even though you don’t qualify under our guidelines, in the interest of putting this matter behind us we have offered you exactly what you asked for in a modification that will extend the repayment period on your loan. I see no benefit to you or to Bank of America in continuing to rehash these matters.

Finally, I see from your web site that you also spent some time in Columbia, South Carolina. I agree that it is not quite Europe, but it does hold some good memories for me, since that is where I met my wife and where two of our children were born. It is also where my niece (a member of the State House of Representatives from Charleston) spoke in favor of taking down the Confederate battle flag last week. So, some things do change for the better!

Best regards,

David

David K. Tinkler
Assistant General Counsel
Legal Department-Bank of America
Mail Code: NC1-027-20-5
Hearst Tower, 214 N. Tryon Street, Charlotte, NC 28255
Phone: 980-387-5880 Fax: 704-208-3122
david.k.tinkler@bankofamerica.com

From: kb
Sent: Friday, July 17, 2015 10:45 AM
To: Tinkler, David K - Legal
Subject: Re: Bank of America HELOC

Hello David -

1) I'm sorry for my delayed response. I've had some personal matters I've had to attend to. I hope my delayed response hasn't caused you or other individuals much distraction.

2) Your immediate responses to my short deadlines was in fact both noted and appreciated. It showed me you took my inquiry seriously. I can't say your written response showed the same sincerity as your timeliness, but the timeliness was appreciated. Thank you for that level of attention to this matter.

3) Why have you started a new email string with your offer? Keeping communication on a single email string makes it easier to track conversations. Please don't play these types of silly hide-n-seek games when dealing with serious matters. It is inappropriate.

4) It seems presumptuous of you to assume I even received your offer. It does not appear to have had any tracking on it, and you did not ask me to acknowledge receipt nor put an expiration date on the offer. Do you know for a fact that I even received it on July 1? Personally, I typically either ask for a quick confirmation of receipt with each email I send out and/or I put a short response deadline on all relevant correspondence to keep attention on important conversations. You may want to consider the same? I find it to be very beneficial for my business dealings.

5) The typically excessive length of 'time' Attorneys typically allocate for responses and deadlines has always fascinated me. It's always more than enough time for most individuals to forget a lot of details related to a situation. It's strange. As an attorney, and especially as an employee vs a private practice attorney, you get paid to review and refresh yourself each time a dialogue picks up, so I guess from that perspective, time is of less value since you get paid no matter how many times you have to review something. It's a very different perspective than that of folks like myself who are self-employed and who do not bill hourly. In general, time typically has far greater value to individuals who earn money thru the sale of products or flat rate services versus those who earn money hourly. Efficiency and mindfulness become much more relevant.

To confirm, I've received your offer. You will have a response no later than Friday July 24 by 5pm EST as you've requested.

Have a nice weekend.

kb

On Fri, Jul 17, 2015 at 6:29 AM, Tinkler, David K - Legal <david.k.tinkler@bankofamerica.com> wrote:

Mr. kb

In view of your insistence on the urgency of getting a response from Bank of America, I'm a bit surprised that you have not responded to my message dated July 1, 2015.

Please let me know by the close of business on next Friday, July 24, whether you will accept the offer outlined below. If you have not confirmed your acceptance by that date, I will assume that you do not intend to accept the offer, and we may withdraw the offer.

Best regards,

David Tinkler

David K. Tinkler
Assistant General Counsel
Legal Department-Bank of America
Mail Code: NC1-027-20-5
Hearst Tower, 214 N. Tryon Street, Charlotte, NC 28255
Phone: 980-387-5880 Fax: 704-208-3122
david.k.tinkler@bankofamerica.com

From: Tinkler, David K - Legal
Sent: Wednesday, July 01, 2015 4:04 PM
To: kb

Subject: RE: Bank of America HELOC

Mr. kb

At this time, Bank of America is prepared to make the following offer. Provided that you sign a mutually agreeable Release Agreement containing confidentiality and non-disclosure provisions satisfactory to Bank of America, the Bank is willing to enter into our standard Home Equity Modification Agreement under the Home Equity Repayment Extension Program, which Agreement would contain the following terms (among others):

1. The Agreement will become effective on the day after your draw period expiration date of September 27, 2015, provided the signed and notarized Modification Agreement is received before that date.
2. Your repayment period will be extended to 300 months and the maturity date for your loan will be September 27, 2040.
3. Your required monthly payment will be based on the variable rate provisions of your current loan as follows: the greater of (1) $1/300^{\text{th}}$ of the outstanding principal balance due under the Note as of the Draw Period End Date, plus any accrued interest (calculated at the variable rate as determined in your current agreement) and other charges due under the Note for the related billing period, any amount due under any Fixed Rate Loan Option, and any amount past due, or (2) \$50.00.

If the offer described above meets your approval, please so advise and I will prepare the Release Agreement for your signature. After that Release Agreement has been signed and returned to me, a different Bank employee will contact you about arrangements for the Modification Agreement.

Cordially,

David Tinkler

David K. Tinkler
Assistant General Counsel
Legal Department-Bank of America
Mail Code: NC1-027-20-5
Hearst Tower, 214 N. Tryon Street, Charlotte, NC 28255
Phone: 980-387-5880 Fax: 704-208-3122
david.k.tinkler@bankofamerica.com

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