

CONSTRUCTIVE NOTICE

To (Person Served)

Date:

Of:(Name and Address of Institution)

THAT YOU ARE IN VIOLATION OF FEDERAL LAW IF YOU REFUSE TO:

1. Open a non-interest bearing bank account if the party wanting to open the account does not provide a Social Security Account Number or a taxpayer identification number; or
2. To provide your services to a client or potential client because the client or potential client does not provide a Social Security Account Number or a tax payer identification number.

You personally, and the institution you represent, may be liable for damages and attorney's fees. In accordance with *Section 1 of Public Law 93-579*, also known as the *Privacy Act of 1974*, and *Title 5 of the United States Code Annotated 552(a)*, also known as the *Privacy Act*, you are being informed of the following:

- The right to privacy is a personal and fundamental right protected by the Constitution of the United States. You may maintain in your records such information about an individual as is relevant and necessary to accomplish a purpose required by statute or by executive order of the President of the United States.
- *Section 7 of the Privacy Act of 1974* specifically provides that it shall be unlawful for any Federal, State or Local government agency to deny any individual any right, benefit or privilege provided by law because of such individual's refusal to disclose a Social Security Account Number. "Right of Privacy is a personal right designed to protect persons from unlawful disclosure of personal information ..." *CNA Financial Corporation v. Local 743*, 515 F. Supp. 942.
- In enacting Section 7 of the *Privacy Act of 1974*, Congress sought to curtail the expanding use of Social Security Account Numbers by Federal and Local agencies, and by so doing, to eliminate the threat to individual privacy and confidentiality of information posed by common numerical identifiers." *Dole v. Wikon*, 529 F. Supp. 1343. "It shall be unlawful for any Federal, State, or Local government agency to deny any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose a Social Security Account Number." *Supra* "An agency is a relation created by express or implied contract or by law, whereby one party delegates the transaction of some lawful business with more or less discretionary power to another." *State Ex Real. Cities Service Gas v. Public Service Commission*, 85 SW2d. 890.
- If the institution you represent is a bank, you are advised that if such bank routinely collects information and provides such information to Federal, State, or Local government agencies, then such bank is an agency of the Government. The 1976 Amendment to the *Social Security Act*, codified at 42 U.S.C., *Section 301 et seq.*, 405 (c)(2) (i, iii), states that

there are only four (4) instances where Social Security Account Numbers may be demanded. They are: 1. For tax matters; 2. To receive public assistance; 3. To obtain and use a driver's license; and 4. To register a motor vehicle.

- You are advised that a non-interest-bearing account does not pertain to any of the above. Because the account pays no interest, there is no "need-to-know" on the part of the government.
- Federal regulations provide you an alternative, 26 CFR §§31.6011, 301.6109 and 31 CFR §§103.28, 103.34, 103.35, employers, banks and payers are required to ask for the social security number, but they shall not be in violation of this requirement if they have made a reasonable effort to secure such identification and are unable to secure the information.
- The federal courts have ruled that private sector solicitors may not obtain social security numbers until they comport their solicitations to comply with disclosure requirements of the Privacy Act, including informing customers of the voluntary nature of such disclosure, the source of authority for requesting such disclosure, and possible uses to which disclosed numbers might be put. *Yeager v. Hackensack Water Co.*, 615 F.Supp. 1087 (1985).
- Any person who is found violating the rights of a Citizen may be subject to the damages sustained by the individual and the costs of the action together with attorney fees. See *Doyle v. Wilson*, 529 F.Supp. 1343 (1982). Violation of 18 USC §§241, 242; 42 USC §§1983, 1985 1986 shall subject you personally and may also subject you to fines of up to \$10,000.00, and imprisonment for up to ten years, or both.
- In accordance with the *Privacy Act of 1974*, whenever an agency fails to comply with the law, the party wronged may bring Civil Action in the District Court of the United States against such agency. Should the Court determine that the agency acted in a manner which was intentional or willful, the agency shall be liable to the wronged party in an amount equal to the sum of: Actual damages sustained, but in no case less than \$1,000; and The cost of the action together with reasonable attorney's fees.
- Your policy must comply with the law and cannot violate the law or the Rights of Citizens.
- Compliance with the Law and this Citizen's intent, as expressly evidenced and implied by this document, is demanded.

Noncompliance with this Notice and Demand shall result in the filing of a formal complaint with the appropriate State and federal agencies against the above named and/or representative(s).

Constructive Notice issued by:

Date:

Witness