

CONSTRUCTIVE NOTICE

To: _____
(Person being served)

Of: _____

(Name and address of Institution)

You are being made aware by this Constructive Notice that it is a violation of Federal Law to refuse to:

- (a) 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
- (b) 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 taxpayer identification number.

You personally, and the Institution you represent, may be liable for damages and attorney's fees.

In accordance with Section 1 of Pub. L. 93-579, also known as the "Privacy Act of 1974," and Title 5 of 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 only 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 to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

"Right of privacy is a personal right designed to protect persons from unwanted disclosure of personal information..." CNA Financial Corp. v. Local 743 515 F. Supp. 942.

"In enacting Section 7 (Privacy Act of 1974), Congress sought to curtail the expanding use of social security 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." Doyle v. Wilson; 529 F. Supp. 1343.

"It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security number." Doyle v. Wilson; 529 F. Supp. 1343.

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 a more or less discretionary power to another." State Ex Real. Cities Service Gas v. Public Service Commission; 85 S W. 2d 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 government.

The 1976 amendment to the Social Security Act, codified at 42 U.S.C.A., Sec 301 et seq., 405(c)(2) (i,iii), states that there are only four instances where social security account numbers may be demanded. These are:

1. For tax matters;
2. To receive public assistance;
3. To obtain and use a driver's license;
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 government.

In accordance with the Privacy Act of 1974, whenever an agency fails to comply with the law, the party wronged may bring a 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:

1. Actual damages sustained, but in no case less than \$1,000; and
2. The costs of the action together with reasonable attorney's fees.

Constructive Notice issued by:

Received By _____ Date _____

Print Name _____