

CONSTRUCTIVE NOTICE

To: (Person being served)	Date
Of: (Name and address of institution)	

This instrument serves notice to the person and/or business, agency, corporation or other entity that the below named Citizen does not have and/or refuses to disclose a social security number. This Right is protected under the First, Fourth, Fifth, Ninth, and Tenth amendments to United States Constitution and provisions of the Privacy Act. The Privacy Act makes it unlawful to require an individual to disclose or furnish a social security number for any purpose, unless the disclosure or furnishing of the number is specifically required by law.

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.

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"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.

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.

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.

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.

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.

You are also put on notice that it is a criminal act for anyone to coerce a person to provide their social security number absent legal authority to do so, as found in 42 U.S.C. Section 408(a)8:

*TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 7 - SOCIAL SECURITY
SUBCHAPTER II - FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY
INSURANCE BENEFITS
[Sec. 408. Penalties](#)*

*(a) In general
Whoever -...*

(8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both.

Constructive Notice Issued By:

Received by (signature):

Printed Name:

Representing:

Witness:

Date: