

SAMPLE LITIGATION HOLD NOTICE
(CORRESPONDING TO FACT PATTERN)

To: All Relevant Employees/Departments

From: Chief Legal Counsel of Bank

Date: [Send out as soon as C brings action against Bank OR as soon as Bank anticipates lawsuit, whichever is earlier]

Re: **IMPORTANT PRESERVATION NOTICE -- PLEASE READ IMMEDIATELY**

As you may know, C, child of D (a deceased former customer of Bank) has filed suit against Bank in the [court name] claiming breach of trust and self dealing, as well as related claims, arising from the sale of apartment building by Bank to B. Apartment building was formerly owned by D and became an asset of a trust created by D before his death. Bank is trustee of D's trust.

In that connection, it is important that we preserve all records, including electronic materials, that may be relevant to the legal proceedings. Accordingly, until further notice, please preserve and do not destroy documents that relate to the following topics for the [relevant time period]:

- All documents relating in any way to the creation and operation of D's trust;
- All documents related in any way to communications between Bank employees and D regarding D's trust and/or the apartment building;
- All documents related in any way to communications among Bank employees regarding D's trust and/or the apartment building;
- All documents relating in any way to T's recommendation and Bank's decision to sell the apartment building;
- All documents relating in any way to the decision to retain independent real estate broker to recommend the asking price for the apartment building;
- All documents relating in any way to prior dealings between Bank and independent real estate agent;
- All documents relating in any way to independent real estate broker's recommendation regarding the asking price for the apartment building;
- All documents relating in any way to Bank's decision to sell the apartment building to B;

- All documents relating in any way to the negotiation and execution of the sale of the apartment building to B;
- All documents relating in any way to Bank's employment and/or termination of B; and
- All documents relating in any way to Bank's mortgage on the apartment building.

The above-listed topics should be construed broadly. If there is any doubt regarding whether a document should be retained, you should err on the side of caution and retain it.

This directive applies to records in any form, wherever kept. The definition of "documents" includes, for example, all letters, e-mails, instant messages, drafts, informal files, desk files, handwritten notes, faxes, memoranda, forms, calendar entries, address book entries, voice mail, and any other records stored in hard copy, or any electronic form (such as Palm Pilot or Blackberry), or any other medium, whether at the office, home, or anywhere else, that relate in any way to the topics described above. Under no circumstances should any documents relating to the topics listed above be destroyed. If your files contain duplicate copies of documents, all must be preserved if they are non-identical (*i.e.*, they contain annotations); otherwise, duplicates may be discarded.

Regarding e-mail communications, I have been in contact with our IT department in order to ensure the preservation of electronic material on the Bank e-mail system. However, if you use or have ever used personal internet e-mail accounts, such as hotmail or yahoo, for Bank business purposes, please contact me or someone else from the Legal Department immediately so that the requisite steps may be taken to preserve any potentially relevant material stored on those accounts.

It is essential that all individuals who report up through you and who might have such documents and materials are made aware of these instructions. Please share this communication with them.

It is of critical importance to Bank that you comply with these procedures. Employees must take every reasonable step to preserve this information until further written notice from [Bank Legal Department]. Failure to abide by these instructions could result in extreme penalties against Bank and could form the basis of legal claims for spoliation.

If you have any questions or concerns regarding these instructions, please contact me [or designated contact] at [phone number] immediately. Thank you in advance for your cooperation.