

FORMS: 10.16 AFFIDAVIT OF DEFAULT AND OF ESTOPPEL BY ACQUIESCENSE

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The affidavit is intended to be sent to a bank or financial institution after you have sent them the Legal Notice Requesting 5th Amendment Waiver Evidence and they have refused to respond.

Certified U.S. Mail [mailing location]
Serial Number #P xxx xxx xxx [city], [state]
Return Receipt Requested (zip code exempt)
Restricted Delivery [today's date]

AFFIDAVIT OF DEFAULT AND OF ESTOPPEL BY ACQUIESCENSE

[bank officer]
[name of bank]
[address]
[city], [state]

Dear [bank officer]:

We, the Undersigned, hereby serve upon you Our AFFIDAVIT OF DEFAULT to establish presumed fact concerning your failure to produce competent evidence that We, as customers of your bank, ever waived Our fundamental Right to due process of law, as guaranteed by Amendment V to the Constitution for the United States of America, as lawfully amended (hereinafter "U.S. Constitution"). The U.S. Constitution is the supreme Law of this Land, pursuant to Article VI, Clause 2. The constitution of this state also recognizes that the U.S. Constitution is the supreme Law of this Land.

On [mm/dd/yy1], We presented to you Our formal written NOTICE AND DEMAND for production of any and all material evidence, currently in your possession or control, of any knowing, intentional, and voluntary waiver(s) by Us of our fundamental Right to due process of law. As stated in Our previous written communications to you, waivers of fundamental Rights must be knowing, intentional, and voluntary acts, done with sufficient awareness of the relevant circumstances and likely consequences. See U.S. v. Brady, 397 U.S. 742 at 748 (1970); U.S. v. O'Dell, 160 F.2d 304 (6th Cir. 1947).

Said NOTICE AND DEMAND gave you reasonable notice and grace to locate and produce the requisite evidence of any such waivers. The deadline for production of said evidence was [mm/dd/yy2]. You have served absolutely nothing upon Us which could be considered as a good faith and diligent attempt by you to respond to Our lawful and reasonable NOTICE AND DEMAND within the stated deadline.

Accordingly, We now invoke the doctrine of estoppel by acquiescence, because we can prove that your previous fiduciary contract with Us imposes upon you a legal and a moral duty to answer, and your silence can now be construed as a fraud. "Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading." See U. S. v. Tweel, 550 F.2d 297, 299 (1977), emphasis added, quoting U.S. v. Prudden, 424 F.2d 1021, 1032 (1970). See also Carmine v. Bowen, 64 A. 932 (1906).

VERIFICATION

We, the Undersigned, hereby verify, under penalty of perjury, under the laws of the United States of America, without the "United States", that the above statements of fact are true and correct, to the best of our current information, knowledge, and belief, so help Us God, pursuant to 28 U.S.C. 1746(1).

Further Affiants Sayeth Naught.

Executed on [mm/dd/yy3]

[signature of first Person]

[typed name of first Person]

[signature of second Person]

[typed name of second Person]

[signature of third Person]

[typed name of third Person]
All rights reserved without prejudice, UCC 1-207

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