

9-11 ATTACKS SPARK SAFE DEPOSIT LAWSUITS

The events that followed September 11 have significantly affected the safe deposit industry nationwide. Since the attacks on the World Trade Center, one unfortunate New York bank has been confronted with some very difficult challenges and tough decisions.

Vault Damaged

This large financial institution provided safe deposit services at its location within the 5 World Trade Center building. Though badly burned and damaged by the attack, the building was left standing.

The 2500 safe deposit boxes, located in the second floor vault, protected valuables of many New York residents. The bank reassured worried renters that, despite the devastation, they would be able to recover their box contents.

Bank Reconsiders

Three months later, the bank reversed its position and notified the renters that the boxes had been so severely damaged that they were not salvageable. The bank indicated that the building would be demolished and these boxes along with their contents would be disposed of in a Staten Island landfill, along with other Trade Center rubble.

Following on the heels of this disturbing revelation, the distraught renters learned that, despite the bank's inability to salvage the boxes, it had miraculously managed to recover from this same ravaged building cash totaling hundreds of thousands of dollars.

Litigation Follows

Several concerned renters initiated a class action lawsuit in a last-ditch effort to recover their doomed property. During the litigation process, the bank's safe deposit lease agreement was reviewed. The agreement stated, "The contents of your safe deposit box may not be fully protected against loss under the insurance coverage maintained by the bank." Understandably, these renters interpreted this clause to mean that the bank provided some degree of insurance protection. Since this was obviously not the case, the bank was subsequently accused of misleading these consumers.

Confusion Nationwide

All financial institutions zealously attempt to assure consumers that their deposits are insured for at least \$100,000. It is incumbent upon the institution to guard against claims that suggest in any way that this protection extends to safe deposit box contents. To do otherwise creates confusion, misconceptions and potential liability.

Get Prepared

Listed below are ten safe deposit questions that, if answered, “Yes” can help you avoid risks. If you answer “No” you may have some hidden liability that you are not aware of.

1. Does your lease agreement have a very clear statement that says: “No insurance coverage of any kind is provided by the financial institution to cover safe deposit box contents,” and is a copy of this lease given to each new renter?
2. Is a separate “No Insurance Disclosure” form, printed in at least eight-point bold type, given to each new renter?
3. Do you display a carefully worded 8x10, “No Insurance” sign inside or near the vault area and does it clearly state that obtaining insurance protection is the renter’s responsibility?
4. Do you avoid using misleading statements, promises or guarantees, such as “fireproof, waterproof or burglarproof” in your safe deposit marketing brochures, statement stuffers or other promotional items?
5. If you disclose your annual box rental rates in a “Service Fee” brochures, do you have a bold statement under these rates that says: “No insurance coverage is provided on box contents by FDIC or this financial institution?” (FDIC requirements to display insurance logos on these forms can mislead consumers.)
6. Are employees trained to be very careful when answering consumer questions about insurance or how much security is provided with this safe deposit service? (Difficult questions should be referred to a supervisor.)
7. Do you provide consumers with specific “Questions and Answer” brochures that correctly answer their questions about insurance coverage, physical vault security and the many other areas that should be disclosed?
8. Do you avoid displaying an FDIC sign or logo on your vault door, inside the vault, on safe deposit marketing banners or brochures, or on the small key envelopes provided to renters to store their box keys?
9. If you experience a disaster (floods, bombs, etc.), are employees trained to be very careful when making statements to consumers or the news media about the recovery efforts, safety or security of these box contents?
10. After a disaster, would you provide the same degree of care, security and recovery efforts for the box renter’s valuables as you would for your own assets?

In Conclusion

How did you do on the test? If you had any “No” answers and would like to find out how to improve your operations and reduce your liability, a complimentary safe deposit “No Insurance” package is available. Simply contact Dave McGuinn at 713-937-9929 or email your fax number to sdspec@aol.com and request this valuable information. You must test your security, marketing and disclosure procedures now: not after a 9-11 disaster.

About the Author: David P. McGuinn, President of Safe Deposit Specialists, is a former banker and is often referred to nationwide as the safe deposit GURU. In all 50 states he has trained over 200,000 safe deposit personnel since 1969 and has served as President of the American Institute of Banking and the American, Texas and Houston Safe Deposit Associations. He has created numerous safe deposit manuals, training videos, products, compliance forms and other products. During the past 35 years, McGuinn's safe deposit manuals, videos, products and forms have been recognized as the national standard for the financial industry.