Offsite Storage Project
Updated for Files Less than 7 Years Old

- **Purpose**: To cull all offsite storage (offsite) files. Identify documents that should be retained. Have all other documents shredded using Shred-It. Once the review of all files Seven years old and prior have been completed, cull all offsite storage (offsite) files to present, identify documents that should be retained/returned, create electronic file for non-original documents, including notes and relevant correspondence, and destroy remaining physical files.
- **Rationale**:
  - Eliminate all offsite storage and minimize old storage files to minimize processing time for items retained, and the expense of annual storage fees. Most significantly, this is part of an overall project to make the firm more electronic and to reduce administrative time charges to clients in the future for the handling of hard copy records.
  - Identify and secure any original documents that may have been filed in offsite storage in earlier years.
  - Identify any client property (it is believed that there is none in offsite storage, only on premises and the kits on premises) and permanent records (listed below).
  - As part of endeavoring to implement a succession plan to minimize the costs and administrative burdens a potential buyer or successor would have by eliminating any need for document return and by having all documents consolidated electronically.
- **General Policy**: Our policy is that the no client property shall ever be retained, with the sole exception of an original will or other original estate planning documents while they are being processed for return (or in the case of a decedent while being processed for filing in Court), and original entity kits while being set up but only for the period of time until they are returned. Our strict policy is that we will not hold any other client property of any nature (original documents, kits or otherwise).
  - **Files more than 7 Years Old**. Client files may, in our sole discretion, be destroyed after Seven (7) years from the earlier of: the date the document was provided to us or the date of our preparation of the document. The express goal is to convert any relevant items as identified in this Memorandum to electronic format and to destroy (via third party vendor shredding) any such files.
  - **Files less than 7 Years Old.** If a file has been retrieved from off site storage that is less than 7 years old, it should be reviewed by an attorney and they will determine what client property, if any, should be returned to the appropriate person, and what notes, correspondence and documents

should be scanned to an electronic file. Once the electronic file has been created and all client property properly disposed of, the physical file is to be destroyed. For administrative staff the following procedure should generally be followed unless an attorney of the firm advises otherwise:

  - **Manually type a cover sheet listing the client name any variation, names of any trusts or entities you identify. The purpose of this cover sheet is to assure that we can key name search electronic system and identify these items. The reason for this extra step is that handwritten items which may comprise much or even all of these documents being organized for scanning may not be clearly scanned. This is why any variation of a client or entity name should be typed on this sheet.**
  - **Attach any correspondence, family tree, balance sheet and any handwritten meeting notes, will signing checklists and transmittal sheets.**
  - **These will be processed by clerical staff (i.e., staples removed, torn or crumbled pages copied to facilitate scanning) and then clipped and placed in a box for client scanning which will be sent to batch scanning and then added to the document management system.**
  - **Use the form cover sheet provided.**

- **Box Review and Destruction General Procedures**: Procedure for boxes brought back from off site storage.
  - Boxes are being brought back Twenty (20) at a time and lined up in the same office each time.
  - Boxes should be the oldest boxes in reverse date order (oldest first).
  - The list of boxes should be typed up as a memo and confirmed so that it is known in advance which boxes have been requested and which are delivered. The boxes requested MUST be the oldest boxes on our storage list.
    - If a box is on our list as the next oldest and is not at the storage center the missing box must be researched and resolved.
    - If a box is identified by the storage center as older and is not for any reason on our storage list the detailed (folder by folder) contents of the box must be added to our list and an explanation of what happened as best as can be ascertained must be addressed.
    - When boxes are ordered and delivered and then reviewed and destroyed this must be noted box by box on our storage list.
  - Boxes actually delivered should be verified to the boxes ordered to be certain that they are correct. Further, when boxes are shredded after

review and withdrawal of appropriate items it should be re-confirmed that every box ordered, delivered, and shredded are identical numbers.

- Boxes must be confirmed removed for good with the storage center to remove them from the storage list and stop costs incurred with the storage of that box.
- Boxes shall be sorted/reviewed and any document or item which could conceivably be an Identification Document should be stood up in the same location it is in the file. Administrative staff should err on the side of assuming any document in question is an Identification Document. The location of the document in the files should not be changed as the context of the document identified in relationship to the remainder of the files present may help the review attorney determine whether or not the particular document is in fact an Identification Document.
- During document review for Identification Documents, administrative staff should be alerted to documents which may be relevant and/or irreplaceable, even if no original signature contained on the document.
- No duplicate non-original documents are to be stood up for review.
- No draft documents are to be stood up for review.
- All documents that are not listed below for identification ("Identification Documents") will be shredded. Clear identification of boxes being shredded will be scanned with the shredding company invoices/work orders and saved in the appropriate directory files.
- After Twenty (20) boxes are reviewed by administrative personnel an attorney will review each item identified, then an attorney of the firm will overview each box. Once a box is complete and Identification Documents selected, the Identification Documents will be handled as set forth below. The shredding company will be called to destroy the remaining contents of those 20 boxes.
- Once documents have been identified by administrative staff and reviewed by an attorney, documents should be organized in Three (3) boxes as follows:
    - <u>Scan and Shred</u>. These documents will be immediately shredded once scanned.
    - <u>Scan and held for return</u>. These documents will be placed in the original document folder for the client or former client and the will list should be updated once scanned. These will be returned to clients or former clients as part of the separate document return project.
    - <u>Scan and Re-file</u>. After scanning these documents should be refilled in the client's redwell.

- An administrative person from the firm will list each box and print the storage list for those boxes to be scanned with the Shredding company work order so that a record will be maintained of what was destroyed.
- This record (Shredding company work order, print out of storage list for boxes destroyed, notes as to boxes involved) will be scanned to the network. These file names should contain the date of the shredding in their title.
- See below as to treatment of Identification Documents.
- As soon as one group of boxes is shredded the next group of Twenty (20) boxes will be ordered.

- **Identification Documents**.
  - It was never our policy to retain any original documents that clients did not also have comparable originals of, other than wills. For example, if we had an original trust the client was typically given the other two originals. Therefore, any original other than a will, the client also already had been given an original. This was strict policy and in the significant time devoted to the offsite storage and document return projects no failures to comply have been identified. It is therefore reasonable to assume that the client was given an original. This is also confirmed in all Transmittal sheets.
  - It is our belief and policy that any original corporate, business, trusts, powers of attorney, living wills, health proxies, etc. for which we have originals, the clients also were always provided originals. The only exception to this policy is beginning in 2009 selected documents were signed as single originals (not multiple originals) and those documents expressly stated that photocopies, PDFs, facsimiles and other reproductions are as valid as an original.
  - Note, that because a potential Identification Document may be small, rotating them vertically (i.e., standing the up in the file) will not suffice to identify them for the reviewing attorney. In these instances, a manila legal size folder will be stood upright in the file and these potential Identification Documents will be clipped to the outside of the manila folder. The manila folder will remain empty and unlabeled. It is merely being used in this context as a marker so that any possible Identification document that is small will be readily identifiable by the review attorney.
  - Any document which might possibly be in one of the categories below must be stood upright in the files and so identified and segregated for attorney review. Note that for files under 7 years old the correspondence, family tree, balance sheet and all handwritten meeting notes need to be stood up. These will in all cases be organized with as cover sheet and scanned as described above and using the template form cover sheet created.
    - Probate Documents:

    - IRS Form 706 estate tax return plus exhibits including state filings, whether copy or original signature.
    - IRS Form 709 gift tax return plus exhibits including state filings (if any), whether copy or original signature.
    - IRS EIN Assignments (no need to retain original duplicates, even if all original signatures).
    - Original Letters Testamentary.
    - Original Wills (Current or Superseded). Martin Shenkman will make a determination as to whether the original will should be retained, destroyed, returned to the client. All original wills should be placed in attorney review box.
    - Probate documents identified as Identification Property should be scanned and refilled in new offsite storage boxes properly labeled, added to the storage list and resent to offsite storage.
- Corporate kits or LLC Company kits originals only (i.e., the binders) and the contents or items that are often filed/maintained in a kit. Note that our firm policy is that all kits are retained solely in the designated bookshelves in our offices as client property. Any kits identified are almost assuredly for terminated entities or which clients instructed us not to retain. Any kits identified must be looked up in the kit list (Excel spreadsheet) maintained for these kits. If it is not listed, it should be added. This means that the kit, even if it will soon be destroyed, must be assigned a number, listed on the kit list and filed with the kits in the designated bookcases. Martin Shenkman will make a determination as to whether the kit should be retained, destroyed, returned to the client. If the kit is to be destroyed or returned that action must be noted clearly on the kit list.
    - Corporate, company or other seals. It is highly unlikely any of these would have been sent to storage except in the rare circumstance above inside a kit.
    - Original Stock or LLC Certificates.
    - Stock Certificate copies (if we did not locate the originals).
    - IRS EIN Assignments (no need to retain original duplicates, even if all original signatures).
- Any documents with original seals. This could be a deed, stock certificate, letters testamentary, etc. These will generally be visible or identifiable by feel. These documents should all be scanned then an attorney will make a determination as to how they will be handled. If there is any uncertainty, they should be filed in the

appropriately color coded folders (manila – estate planning; blue – business/entity; purple – gifts and gift tax returns; yellow – probate; red – real estate) and placed in appropriate color coded folders each properly labeled and added to new storage boxes, added to the storage list and re-turned to the storage center. A list of these items should be scanned with the storage center invoices and/or work orders and saved in the appropriate folder.

    - Original Deeds. These documents should be scanned, added to the Will List, and filed in the original document storage.
    - HUD-1 Closing Settlement Statements. These documents should be identified, scanned and shredded.
    - Original beneficiary designation forms. These should be scanned, added to the will list and filed in the original document storage. It is highly unlikely any non-superseded beneficiary designation forms will have ever been sent to offsite storage.
    - Original estate planning documents. Our firm policy is to keep any original estate planning documents in original document storage in our office. However, in many instances superseded original estate planning documents were sent to offsite storage (in most years in purple folders) instead of being destroyed. We never sent original documents to offsite storage that were not superseded and throughout the extensive work on the document return and offsite storage projects no exceptions to this procedure have yet been identified. It is anticipated that all of these documents will be suitable for destruction. However, they should be treated as Identification Documents by the administrative staff and the review attorney should verify to the current will list the status and make a determination as to what should be done. If there is any doubt these documents should be added to the Will List and filed in the appropriate original document storage. Martin Shenkman will make a determination as to whether original superceded will(s) should be retained, destroyed, returned to the client. Fully executed Will copies should be treated as Identification documents by staff.
    - IRS EIN Assignments (no need to retain original duplicates, even if all original signatures).

- **<u>Shredding</u>**.
  - Any boxes and/or documents to be shredded will be listed, attached to the shredding company work order/invoice, and with the appropriate pages from the storage list scanned into the appropriate folders in the z directory.
  - The goal of these steps is to clearly document which files are being destroyed, which documents have been determined to be Identification

Documents and culled, and the disposition or treatment of each identification document so pulled.

- **<u>The storage center/Offsite storage</u>**.
    - Any items retrieved from offsite storage must be noted on the storage list, with date. When preparing boxes for the shredding company, compare contents of each box to be shredded with contents listed on storage list. If conflict between box contents and list arises, Martin Shenkman must be advised. After shredding is completed, update storage list to reflect date destroyed and appropriate boxes must be lined through.
    - All invoices/work orders and any accompanying lists concerning documents retrieved must be scanned and saved in the appropriate folder.
    - No items are to be returned to offsite storage.
- **<u>Scanning</u>**.
    - EVERY (no exceptions) Identification Document (whether in a kit, returned to the storage center and offsite or offsite storage, added to a original document storage, or otherwise) must be scanned.
    - This scanning MUST be completed prior to the boxes involved being shredded (recognizing that most Identification Documents will be saved and not shredded).
    - All scanned documents will be saved in an electronic folder for the client. Note that because older files may predate the establishment of the client directory you will often have to add a new client folder in which to save this.
    - EVERY document scanned will ALSO (i.e., in addition to saving in a client Z folder) will be saved in our document management system.

<u>Offsite Storage Project</u>
<u>General Sorting Guidelines</u>

- <u>Scan and Shred Box</u>:
  - Final estate tax returns (not drafts)
  - Gift tax returns (not drafts)
  - IRS EIN assignments (if duplicates, only scan one, shred all)
  - HUD-1 Closing Settlement Statements
  - Estate tax return exhibit books
- <u>Scan and Return Box</u>:
  - Original contracts
  - Original partnership agreements
  - Original deed
  - Original beneficiary designation forms
- <u>Scan and Return</u>:
  - **Comment**: when handling original documents belonging to former client, they need to be returned. A lawyer needs to review file to ensure properly terminated and to draft letter returning originals. To date, after ½ of the offsite storage boxes have been reviewed no such documents have been identified. We are not refilling or retaining any such documents. We will return if a lawyer advises it is necessary. Scan and shred otherwise, or merely shred if not necessary to scan. The ONLY exception to this will be if there are original client documents or other client property (we never had any) and the former client cannot be reached to arrange for return. In this limited case original documents will be retained.
  - Original Letters Testamentary, Letters Administration, and Letters Trusteeship.
  - Corporate, company or other seals (to kit or return if no kit).
  - Original Stock or LLC certificates (to kit or return if no kit).
  - Stock certificate copies (if originals not located; to kit or return if no kit).
  - Original trusts (unless terminated).
  - Original estate planning documents (excluding will).
- <u>Scan and Lawyer Review</u>:
  - Original wills (current or superseded).
  - Original terminated trusts and trust termination documents.