

**FRANKLIN COUNTY
PROSECUTING ATTORNEY**



**MERCHANT'S HANDBOOK
FOR BAD CHECKS**

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BAD CHECK UNIT

**Prosecuting Attorney's Office
15 S Church St, Room 204
Union, MO 63084**

636-583-6370

ACCEPTANCE OF CHECKS:

The first step in reducing bad check losses is to refuse to accept checks that are most likely bad or difficult to prosecute. We strongly recommend that you not accept the following types of checks:

- Two Party Checks
- Postdated or Held Checks
- Starter Checks
- Out of State Checks

IDENTIFICATION OF CHECK WRITER:

In order to prosecute a bad check case we must prepare a complaint and issue a summons or a warrant. Therefore, it is extremely important that you check ID when accepting checks. Without some sort of identifier (date of birth, social security number, or driver's license number) our office will not be able to prosecute a check writer. Even if you know the person writing the check and can identify them we will still need one or more of the above identifiers in order to prosecute. The easiest way to obtain one of these identifiers is to check a person's driver's license. It will always have the date of birth on it. Have the clerk write this information on the check to indicate that ID was checked.

Please note that forgers and bad check writers are aware of which merchants do not require identification and will frequent those stores. Protect your business and your customers by requesting identification when accepting a check.

AFTER A CHECK IS RETURNED:

When you receive a check which is not honored by the bank you may choose to either pursue a civil cause of action or criminal prosecution. You must choose only one and cannot try to collect through both avenues. If you would like to pursue it civilly, then you can contact the civil court for further instruction at 636-583-7366 or consult your own attorney or private collection agency. If you would like to pursue criminal prosecution, then you may complete and submit a bad check complaint form to our office.

CERTIFIED COPY OF CHECK:

The banks have decided to start scanning the checks and sending them electronically. They will then shred the original check. We require that you submit a certified copy of the check when turning them over to our office. Usually when the bank notifies you that a check was not honored they send you a certified copy of the check. Sometimes these are printed on yellow paper. They will usually be stamped "legal copy" or "copy in lieu of original". We will not accept a photocopy of the check like the one you get in your bank statement.

BAD CHECK COMPLAINT FORM

The complaint form must be completely filled out. You will need to keep copies of the blank form for future use. Each form must be signed by the owner/manager and by the person who accepted the check. You may pre-answer your form for convenience and make copies BUT each signature must be an original and your employees must understand that they could be asked to testify that the answers on the form are correct. Before they sign please go over the form with them and make sure they agree that the answers are correct.

Each check must be submitted with its own complaint form. You may not attach several checks to one complaint form even if it is the same check writer. Every check is treated as a separate case.

It is important that you know which person accepted each check. Have the person who accepted the check initial it in the top left hand corner. This person could be asked to testify in court at a later date so it is also very important that we have their correct home address and phone number. In the event that they change employment before a case is disposed of we will need contact information for them. In most cases guilty pleas are obtained without testimony from any witnesses.

PROBABLE CAUSE STATEMENT

In order for charges to be filed we must submit to the court a probable cause statement. A probable cause statement will need to be filled out for each check you submit to our office. You do not have to fill out a PC statement if:

- The check was postdated or held
- You did not check ID and cannot identify them in court.

All forms must be submitted before we input the check into the system. You will not be allowed to fill out or change the forms later.

THE LETTER

We generally begin seeking restitution by issuing a letter to the check writer. In most cases receipt of the letter prompts people to take care of the matter. Upon receipt of the complaint form in our office we will send out a letter and give them ten days to come in and pay it. They may call and request a one time extension of ten days. If the check has not been paid before the due date it will be pulled and given to the Assistant Prosecutor to review for criminal charges. The prosecutor will determine from the information on the complaint form whether charges will be issued. The prosecutor has the final say on this matter.

A person who is writing checks with the intent to defraud will typically have multiple checks turned over to us from various businesses. If no charges are issued then we will keep the check in the event that it can be added to a case at a later date. After six months we return the uncollected checks to the merchant to pursue civil remedies.

CRIMINAL CHARGES

In order for our Office to file criminal charges, the person who accepted the check must be able to testify in court. They need not remember the person or transaction as long as they can testify that they accepted the check and obtained an identifier.

If a misdemeanor charge is filed, the check writer (defendant) will be mailed a summons. If a felony charge is filed, the check writer (defendant) will be issued a warrant for their arrest.

We will not prosecute checks in the following situations:

- If the person who accepted the check is unknown, not available, or hasn't signed the complaint form prior to submitting it to our Office. We will not let the person who accepted the check sign the form after it is received in our office. This must be done prior to submitting it.
- If the person who accepted the check cannot identify the check writer or did not verify the check writers social security number, date of birth, or driver's license number by a photo ID.
- If you do not have a social security number, date of birth, or driver's license number for the check writer.
- If you have made an agreement to take partial payments on the check.
- If you have an agreement between parties to hold the check.
- If the check was not dated or was postdated.
- If the check is a two-party check.
- If the check is drawn on an out of state bank.
- Starter checks
- Business checks

FEES AND PAYMENTS

Missouri law allows the Office of the Prosecuting Attorney to collect a fee from the person who wrote the check. These fees are allocated to fund the Bad Check Unit. This law enables us to provide this service to you at no cost. Our Office does not collect fees that you may impose upon people that write bad checks at your business. You will still need to collect these fees.

Once our Office receives a payment for your check, we will then disperse those funds to you. It is important that you keep us informed of any changes in address or contact information.

We ask that you **DO NOT ACCEPT PAYMENT** once a check has been turned over to our Office. **ACCETPANCE OF PAYMENT AFTER THE CHECK HAS BEEN TURNED OVER TO US COULD EXPOSE YOU TO THE CIVIL LIABILITY.** Notify our Office immediately in the event that you mistakenly accept payment for a check you have turned over to our office.

STOP PAYMENTS

Stop payment checks are governed by a different statute from the one governing insufficient funds, account closed, and no account checks. Sometimes a stop payment check can be considered a civil matter. For this reason we ask that you send your stop payment checks to the local police department for investigation. They will then refer it to our Office for prosecution if it is determined to be criminal in nature.

FORGERY

Any check that is stamped forgery by the Bank must be turned over to the local police department for investigation.

ATTACHMENTS:

Complaint Form
Probable Cause Statement

BAD CHECK COMPLAINT FORM
PLEASE TYPE OR PRINT CLEARLY

COMPLAINANT INFORMATION:

Name of business or person defrauded: _____
Business owners name: _____ Owner's SSN: _____
Business Address: _____
City: _____ State: _____ Zip: _____ Phone Number: _____

Name of person who ACTUALLY ACCEPTED the check: _____

HOME address of person who accepted the check: _____

City: _____ State: _____ Zip: _____ Phone Number: _____

Did he/she see check writer's ID and verify the information? Yes _____ No _____

Can he/she recognize the check writer and ID them in court? Yes _____ No _____

Was the check passed in Franklin County? Yes _____ No _____

Was the check received by mail? Yes _____ No _____

Was the check postdated? Yes _____ No _____

Was any partial payment accepted? Yes _____ No _____

Was there any agreement between any parties involved to hold this check? Yes _____ No _____

CHECK WRITER INFORMATION:

Name: _____

Address: _____ City: _____ State: _____ Zip: _____

Date of Birth: _____ SSN: _____ DL# _____

CHECK INFORMATION

Check #: _____ Amount of Check: \$ _____ Check Dated: _____

Signature of owner/manager-REQUIRED

Signature of person who accepted the check

← _____ →
PLEASE STAPLE CHECK HERE

PROBABLE CAUSE STATEMENT

Please Print Clearly

Date: _____

I, _____, of _____,
upon my oath, and under penalties of perjury, state as follows:

1. I have probable cause to believe that

Check Writer: _____
SSN/DL# : _____
DOB: _____

committed one or more criminal offenses.

2. The fact(s) supporting this belief are as follows:

That in the County of Franklin, State of Missouri:

On the _____ day of _____, the defendant
presented:

check number: _____
Bank Name: _____
Amount: _____

in return for goods or services. After this check was deposited in my and/or
my employer's account, it was returned unpaid in the account of the
defendant.

PRINT NAME

SIGNATURE

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE BY LAW.