

OFFICE OF THE PROSECUTING ATTORNEY
FOR MARIES COUNTY, MISSOURI

Terry Daley Schwartz
Prosecuting Attorney

Maries County Courthouse
P.O. Box 212
Vienna, Missouri 65582
Telephone (573) 422-3396
Fax (573) 422-3829

Denise Davis
Lancia Walters
Legal Secretaries

Dear Merchant:

Please find enclosed a packet regarding our current check policies. Following the guidelines of this packet will assist our office in speeding up the collection process.

We are asking that you deliver your "insufficient funds", "account closed" and "Stop Payment" checks to the Prosecuting Attorney's office after you have sent your ten-day letter. We require a complaint form be completed on each of the checks.

If you find the check is returned to you for the reason of "Forgery," you will need to refer the matter to the local police department and file a police report, or handle the matter through civil/small claims court. If you do go through the local police department, they will turn their report over to our office to seek criminal charges.

By submitting complaint forms to our office you and your employees are attesting that your full cooperation will be given in the even that charges are issued. This is including, but not limited to signing affidavits and appearing in court when necessary.

The key to efficiency of the system is the prompt delivery of these checks with completed complaint forms upon their return from the bank.

If you have any questions, please feel free to call our office.

Sincerely,
Terry Daley Schwartz
Prosecuting Attorney of Maries County

GENERAL INFORMATION AND PROCEDURES FOR BAD CHECKS

These instructions and information will assist you and our office in efficiently handling bad checks.

THE COMPLAINT FORM:

Upon receipt of the check(s) from the bank, complete a Bad Check Information and Complaint Form, attach the original check to the bottom left corner, and submit to this office after you have sent your ten-day letter. If you do not want the maker of the check prosecuted, you should NOT bring the check to this office, but should consult your own attorney or private collection agency. We suggest that you keep copies of all complaint forms and checks you turn over to our office for your records. We cannot accept any pre-answered copied forms. A probable cause statement must be sent in on each check. This is a statement of facts concerning the transaction, and is required under the state statutes.

THE LETTER:

Upon receipt of the complaint form in our office, we will send out a ten-day letter to the individual who signed the check. The check writer will have the opportunity to call and request an extension of up to ten more days. If the check has not been paid before the due date, it will then go to the Prosecutor for review. The Prosecutor will determine from the information on the complaint form whether charges will be issued.

FILING CHARGES

If charges are filed, it is very important that the person who accepted the check can positively identify the check writer or has verified the person's driver's license/social security number and date of birth from a photo ID. If the case is set to go to trial, the witness will be subpoenaed to testify in court.

We will not prosecute checks in the following situations:

- a. If the person who accepted the check is unknown, not available, or hasn't signed the complaint form.
- b. If the person who accepted the check cannot identify the check writer or did not verify the check writer's driver's license/social security number and date of birth by a photo ID.
- c. If you do not have a driver's license/social security number and date of birth for the check writer.
- d. If you have made an agreement to take partial payments on the check.
- e. If you have an agreement between parties to hold the check.
- f. If the check was not dated correctly or was post dated.
- g. If the check is a two-party check.
- h. If the check is drawn on an out of state bank.

PAYMENTS:

Do not accept payment of these checks once they have been turned over to our office. If the check writer contacts you after you have turned the check over to us, you should direct them to make payment to our office.

COMPLAINT FORM CHECKLIST

- ✓ ONE CHECK PER FORM PLEASE
- ✓ IS THE PROBABLE CAUSE STATEMENT ATTACHED?
- ✓ ARE ALL QUESTIONS ANSWERED COMPLETELY?
- ✓ ARE ALL SIGNATURES OBTAINED?
- ✓ IS THE HOME ADDRESS OF THE PERSON WHO ACCEPTED THE CHECK PROVIDED?
- ✓ ALL STATEMENTS MUST BE TRUE AND ACCURATE. EMPLOYEES MAY BE CALLED TO TESTIFY TO THESE STATEMENTS.

BAD CHECK INFORMATION AND COMPLAINT FORM

PLEASE TYPE OR PRINT

FOR CRIMINAL CHARGES, THE PERSON WHO ACCEPTS THE CHECK FROM A DEFENDANT MUST BE ABLE TO IDENTIFY HIM/HER IN COURT. IF THE PERSON ACCEPTING THE CHECK DOES NOT SIGN THIS FORM, ADMINISTRATION ACTION WILL BE TAKEN, HOWEVER, CRIMINAL CHARGES WILL NOT BE FILED.

COMPLAINT:

Name of Business or person defrauded: _____

Business owners name: _____ Phone: (____) ____ - _____

Business address: _____

City: _____ State: _____ Zip Code: _____ Phone: (____) ____ - _____

Person who accepted check: _____ Phone: (____) ____ - _____

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

Did he/she see the 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 Maries County? Yes _____ No _____

Was the check received by mail? Yes _____ No _____

Was the check postdated? Yes _____ No _____

Was partial payment accepted? Yes _____ No _____

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

Returned Check Fee Amount for Business/Person who received the check: \$ ____ . ____ (\$25 max.)

This amount will be included in the amount collected from the individual who passed the check.

REQUIRED CHECK WRITER INFORMATION:

Name: _____ Address: _____
(First) (Middle) (Last)

City: _____ State: _____ Zip Code: _____ Phone: (____) ____ - _____

Social Security/DL # _____ State of Issue _____ Date of Birth _____

Amount of Check: \$ ____ . ____ Date Check was written: _____, 20 ____

Any additional information regarding the location of the check writer: _____

By submitting this form to the Prosecuting Attorney, my business and I are willing to cooperate fully in the prosecution of the above individual and affirm the above facts.

Signature of owner/manager

Signature of person who accepted check

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Denise Davis
Laneia Walters
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_____, 20____

Probable Cause Statement

I, _____, of _____, located at
(Business Owner) (Business Name)
_____, upon oath and knowing false statements contained in
(Business Address, City, State, Zip Code)

this document are punishable by law, state that the following facts contained herein are true;

I have probable cause to believe that _____, committed
(Check Writer)
the crime of passing a bad check(s), in that, on _____, in the County of Maries,
(Date on Check)

_____ presented a check in the amount of \$_____.
(Check Writer)

for _____ knowing the check would not be honored, and with intent
(item(s) purchased)

to defraud, drawn upon _____ payable to _____,
(Check Writer's Bank) (Business Name)

knowing it would not be paid due to _____.
(Refusal Reason on Check)

Clerk's Signature

Business Owner/Manager

Name of person accepting check _____

Can the person that accepted the check identify the Defendant? Yes _____ No _____

Was the check received via mail or in person? Yes _____ No _____

How much is your victim fee? _____ (not to exceed \$25, plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument.

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City: _____ State: _____ Zip Code: _____ Phone: (____) ____ - _____

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

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Was partial payment accepted? Yes _____ No _____

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REQUIRED CHECK WRITER INFORMATION:

Name: _____ Address: _____
(First) (Middle) (Last)

City: _____ State: _____ Zip Code: _____ Phone: (____) ____ - _____

Social Security/DL # _____ State of Issue _____ Date of Birth _____

Amount of Check: \$ _____ Date Check was written: _____, 20 _____

Any additional information regarding the location of the check writer: _____

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Signature of owner/manager

Signature of person who accepted check

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