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Re: Bad Check Forms

Dear Owner/Manager:

Enclosed please find the forms you requested for prosecution of bad checks. You can make a photocopy of these forms and keep for future checks you may receive. THIS OFFICE DOES NOT ACCEPT "STOP PAYMENT" CHECKS.

1- Please send the Notice of Dishonored Checks to the writer of the check(s) to the last known address you have (usually the address on the check). First class mail is all that is necessary, however, you may mail certified if you wish. Keep a copy of the Notice of Dishonored Checks that you mailed to the check writer.

2- After the five business day period has elapsed and **full payment** of the check has not been made, fill out the Affidavit and have your signature notarized in front of a notary public. Please make sure you fill in the line where it asks for what type of identification was presented at the time of issuance of the check.

3- If you mailed the Notice of Dishonored Check by first class mail, you will need to complete an Affidavit of Service by Mail. If you mailed the Notice of Dishonored check by certified mail, you will need to keep documentation.

4- You will need the original Affidavit, copy of the Notice of Dishonored Check sent to the writer, the Affidavit of Service by Mail or certified mail documentation and the original check to send to the proper prosecuting authority. To help you determine the proper prosecuting authority, please use the following as a guide:

Any check(s) written by one individual which total **\$500.00 or more** is considered a felony level offense and this office would prosecute.

Also, any check written in the cities of Breezy Point, Deerwood, Garrison, Crosby, Ironton, Crosslake or Merrifield, no matter the dollar amount, this office would prosecute.

Also, any check written outside city limits but within Crow Wing County, no matter the dollar amount, should be sent to this office. We are located in the Judicial Center at 213 Laurel Street, Suite 31, Brainerd, MN 56401. Telephone 218-824-1025.

Bad Check Forms

Any check(s) written by one individual which total **not more than \$500.00** should be sent to the appropriate City Prosecutor. If the individual wrote the check to a business which is within the city limits of the following cities, it should be sent to the following prosecutor:

Brainerd	City Prosecutor's Office
Baxter	319 South 6th Street
Nisswa	Brainerd, MN 56401
Pequot Lakes	Phone 218/828-2311
Jenkins	

When this office has prosecuted your check(s), you will be notified by mail. We may need your testimony in Court for restitution purposes.

Sincerely,

Crow Wing County Attorney's Office

Enclosures

NOTICE OF DISHONORED CHECKS

DATE:

FROM:

TO:

I hereby give you notice that check number(s) _____, dated _____, 20____; drawn by you on the _____ Bank(s) for \$_____, and payable to _____, has been dishonored by nonpayment.

It is expected that you will take care of this matter within five (5) business days from the date of this notice. If you fail to pay this/these check(s) in full within five (5) business days from the date of this notice, this matter will be referred to the proper authorities for prosecution under Minnesota law. Writing bad checks may subject you to criminal penalties.

Minnesota Statute Section 609.535, Subd. 2, provides that whoever issues a check which at the time of issuance, the issuer intends shall not be paid, is guilty of a misdemeanor if the value of the check(s) equals \$250 or less; is guilty of a gross misdemeanor if the value of the check(s) is more than \$250; and is guilty of a felony if the value of the check(s) is more than \$500. In addition, restitution may be ordered by the Court.

In addition to Minnesota Statute 609.535, Minnesota Statute 609.52, Subd. 2, provides that whoever issues a check, draft, or other payment of money, knowing that the actor is not entitled to draw upon the drawee therefore or to order the payment is guilty of theft. Prosecution under Minnesota Statute Section 609.52 may result in convictions for felony, gross misdemeanor or misdemeanor offense depending upon the amount of monies involved and the facts and circumstances surrounding the act.

Minnesota Statutes Section 604.113, provides that whoever issues any check that is dishonored and is not paid within 30 days after mailing a notice of dishonor is liable to the holder for the amount of the check plus a civil penalty up to \$100 or the value of the check whichever is greater together with interest at a rate payable in judgments pursuant to Minnesota Statute 549.09 on the face amount of the check from the date of dishonor, and reasonable attorney fees if the aggregate amount of dishonored check(s) to all payees within a six month period is over \$1,250. Further, a service charge may be imposed immediately on any dishonored check in the amount not to exceed \$30. If a law enforcement agency obtains payment of a dishonored check on behalf of the payee or holder, up to the entire amount of the service charge may be retained by the law enforcement agency for its own expenses.

You will also take notice that Minnesota Statutes provide that if this check is not paid in full within five (5) business days from the date of this notice, the bank or other financial institution on which the check is drawn will be authorized to release information relating to the account to the payee, holder of the check, law enforcement authorities or prosecuting authorities.

Sincerely,

AFFIDAVIT

State of Minnesota)
) ss.
County of Crow Wing)

1. Affiant's name is _____ . I am employed by _____ whose address and telephone number are _____

and my job is _____ .

2. My company's principal business is _____:

3. On _____, 20____ my company received the attached check(s). The writer of said check(s) purchased the following goods or services: _____.

4. The following forms of identification were provided by the writer of said check(s):

5. The following person, employed by _____, can personally identify the writer of said check:

6. That, to your Affiant's best information and belief, the following statements are true:

- a. That check(s) was/were not post dated.
- b. The check writer did not ask us to hold the check(s).
- c. We assumed that the check(s) was/were good and that the writer had money in the bank to cover the check(s).
- d. Our company deposited the check(s) in the usual course of business.
- e. Said check(s) was/were dishonored by the drawee's bank and returned to our company marked as _____.

7. Our company has mailed a Notice of Dishonor to the check writer by certified mail or first class mail supported by an Affidavit of Service by Mail at the address shown on the face of the check(s) or the last known address of the check writer. This notice was mailed on _____, 20____, and more than five (5) business days have passed since this Notice was mailed.

8. As of today _____, the check writer has not responded to our Notice or paid the amount of the check(s). We wish to prosecute the check writer for a crime and agree that we will not ask for charges to be dropped even if the check writer reimburses us for the amount of the check(s). We will notify you immediately if the check writer attempts to reimburse us for the amount of the check(s).

Subscribed and sworn to
before me this ____ day
of , 20

Affiant's signature

Notary Public

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CROW WING

NINTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

vs.

**AFFIDAVIT OF
SERVICE BY MAIL**

Defendant.

_____, being duly sworn, on oath, says that in said County and State, on _____, he/she served the annexed Notice of Dishonored Check upon the following:

by mailing to him/her a copy thereof, enclosed in an envelope, postage prepaid, and by depositing same in the post office at _____, Minnesota _____.

Subscribed and sworn to before me _____
on the ___ day of _____, 20____.

Notary Public