HUBBARD COUNTY ATTORNEY

& LAW ENFORCEMENT

WORTHLESS CHECK PROCEDURE

HANDBOOK FOR MERCHANTS AND RESIDENTS

Dear Hubbard County Merchants and Residents:

As consumers and taxpayers, we all pay higher prices because of the losses associated with individuals issuing worthless checks. Law enforcement spends significant resources investigating and prosecuting people who issue worthless checks. The number of worthless check cases increases every year.

In response to concerns regarding worthless checks, the Hubbard County Attorney, Sheriff's Office, and Park Rapids Police Department have drafted a worthless check procedure/packet.

The main goals are:

- Restitution for victims
- Increase accountability of people who issue worthless checks
- Educate and assist Hubbard County merchants and residents in reducing the number of worthless check cases

If you have further questions after reviewing this packet, please contact either:

(1) The Hubbard County Attorney's Office at (218)732-4133, or

(2) Law Enforcement

Donovan D. Dearstyne
Hubbard County Attorney

Cory Aukes
Hubbard County Sheriff

Terry Eilers
Park Rapids Police Chief

WHAT IS A BAD CHECK?

A bad check is a check that is not honored when presented at the bank. The bank may indicate that the check wasn't honored due to "insufficient funds", "account closed", "stop payment", or some other variation.

Before a check can be considered for prosecution, it must have been deposited with your bank, **even if you suspect the check will not clear**. Also, the law requires that you first send a written notice (Notice of Demand for Payment) by certified mail to the check writer/passer. The demand for payment letter is included in this handbook.

We cannot prosecute any of the following types of checks:

- Checks that do not show payee, date, amount, or signature
- Checks that are pre-dated or post-dated, or where an agreement was made to hold the check for later payment
- Checks for which you have later accepted partial payment
- Checks for which identification of the check writer and person accepting the check cannot be ascertained
- Checks not written or passed within Hubbard County
- Checks involving an extension of credit
- Two-party checks
- *Out-of-state bank checks*

* Out of State checks can, in limited situations, be prosecuted. If a bad check is from an out of state bank, victims should still send the check through the bad check program. However, accepting checks from out of state banks should be avoided.

Establishing Your Policies and Procedures for Accepting Checks

It is important that you or your company establish a set policy and a list of procedures to be followed by all employees when accepting checks. It is further vital to train and stress to your employees the importance of following these policies and procedures. Your policies should include the following:

1. Always require a government issued picture ID for cashing checks. Write down the ID information on the check & initial the check
2. Take a picture of individuals cashing checks (optional but very effective).
3. Do not accept another check from a bad check writer – unless bad check has been paid off and cleared.
4. Post-dated checks will not be accepted – prosecution is not possible if accepted

5. Pre-signed checks will not be accepted – employee must witness the signature for prosecution.
6. Two-party checks will not be accepted – prosecution is not possible if accepted

Working with Customers

Everyone is concerned about not offending customers. Therefore, it is important to teach your employees how to follow your new procedures in an effective, but non-offensive manner. Good customers do not mind policies and procedures which demonstrated a merchant is careful and diligent about all money matters. Asking for ID shows that you are careful about who is offering a check and doing so protects both you from theft and the check owner from identity theft/fraud. When customers ask why you are changing your policies tell them you are doing this to protect both yourself and your customers. Good customers will understand and appreciate this.

How to Decline a Check Diplomatically

If a check falls within a "do not accept category" simply inform the customer that acceptance of the check is against policy but that you can accept other forms of payment (whatever other options you have).

When a check arises which is questionable in your mind simply leave the customer for a moment, return and tell the customer the check has been declined but that you can accept other forms of payment (whatever other options you have).

Types of Government Issued ID

Minnesota State Driver's Licenses

Instruct your employees to compare photos on the license with the check writer's real appearance. Hair color and weight can always change, but gender and race are easy to determine. Age, which can be determined by date of birth, is also an important factor. Also, is the address on the driver's license the same as the address on the check? If not, verify and record the correct address. Is the driver's license current and valid – i.e. not expired? Do not accept an expired license as a valid identification.

Out-of-State Driver's Licenses

These can be accepted with the same instructions as Minnesota licenses. However, there is a strong likelihood the check will also be out-of-state, which should not be accepted. Take extra precaution when out-of-state licenses are offered!

Passports

Passports are good ID but should be approached with the same care as out-of-state licenses. Take care to verify the issuing bank is a Minnesota bank.

Tribal ID Cards

These also contain photographs and should be handled similar to driver's licenses in comparing photos to the check writer's appearance.

Checklist for Cashiers

1. Look at the check! (criminals create fake checks – they often look wrong)

2. Be suspicious of checks that have a low check number, no printed check number, or no printed name. Nearly 90% of bad checks are drawn on accounts less than one year old. If the check number is handwritten or lower than 125, exercise caution.

3. Checks must be dated the same day they are given. Post-dated checks cannot, and will not, be prosecuted. Take them at your own risk.

4. Do not accept pre-signed checks. Make sure all checks are signed in your presence. It is vital that the signature be legible. If not, ask the individual to print his/her name above the signature.

5. Ask for government issued picture ID. This is essential. All signatures should be compared with the signature on a valid driver's license or other identification. Write down the number of the ID yourself. Do not allow the issuer to do this.

6. Make sure the numeric dollar amount matches the written dollar amount. A check for $16.25 should say in words: "sixteen and twenty-five/100 dollars" or "sixteen and 25/100 dollars". Banks will not honor checks with discrepancies.

7. Make sure the check writer does not write their driver's license number, or other photo ID number, on the check. Do it yourself. This protects against a false number being provided. Also, the presence of your handwriting is another way for you to identify the check at a later date, as required for prosecution.

8. Require a permanent street address – not a P.O. Box number. Do not take checks without an address, "starter checks", or new account checks, without extra precautions.

9. If you know that the check writer has given you or your business a bad check before, do not accept another one unless the former bad check has been cleared and paid off.

10. Is the bank which created the check a Minnesota bank? If not, do not accept it.

11. Is the check a two-party check? If so, do not accept it.

12. Initial the accepted check.

Some Tips for Detecting Fraudulent Checks

- Check the finish on the black magnetic computer numbers on the bottom. The magnetic ink is very dull and never shiny.
- Look for at least one perforated edge on the check. All checks, except some government or computer-produced checks, should have a perforated edge.
- Check for any words or numerals that appear to have been altered. Look for different hand writing, different color ink, or any other suspicious differences. If you find discrepancies which are of concern, decline the check.
- Look for changes or additions to the name of the payee. If the color, density, or writing of the name appears different, there may have been alterations. If you are cashing a check for a customer and there are two payees listed (example: Paul Jones or John Smith), and the second name appears different in color, density, or writing, there may have been an alteration.

STEPS FOR FILING A WORTHLESS CHECK(S)

Upon receiving notice from your bank of a dishonored/bad check you must first:

1. Send the **Notice of Demand for Payment of a Dishonored Check**. You MUST use the demand letter provided in the handbook as it contains statutorily required language. You MUST send it certified mail and retain the certified mail receipts.

If you have not received payment on the check(s) within the five day period, please complete the:

Preliminary Worthless Check Report. Must be filled out with each check or batch of checks submitted.

Upon completion of the above, you must submit (1) the original check(s) stamped by the bank with the reason it was returned, (2) a copy of the notice of demand – 5 day notice letter sent to the offender, (3) the original certified mailing receipts for the 5 day letter, and (4) the preliminary worthless check report to the appropriate law enforcement agency.

1. If your business is located in the city of Park Rapids, SEND TO the Park Rapids Police Department at *1425 Fair Ave. Park Rapids, MN 56470* or drop it off at the Police Department.
2. If your business is located in Hubbard County, but not within the city of Park Rapids, SEND TO the Hubbard County Sheriff's Office at *301 Court Ave. Park Rapids, MN 56470* or drop off at the Sheriff's Office.

If the Offender Contacts you After you Reported the Check(s) to Law Enforcement:

If the offender contacts you after you have sent the demand letter/ 5 day letter and forwarded the documentation to law enforcement, please contact the Hubbard County Attorney's Office at (218)732-4133. DO NOT accept full or partial payment on the face value of the check without first speaking to the prosecuting attorney. Doing so will end all efforts by our office to obtain restitution on your behalf, as prosecution becomes impossible.

For the offender to redeem the check AFTER you submitted the document packet the offender must contact the County Attorney's Office and pay the check and fees completely through the office. Should this occur, a restitution check will be issued to you/your business in a timely manner.

If your testimony is required in Court, the County Attorney's Office will notify you of the time and place, by Subpoena/Summons. It is imperative that you abide by this Subpoena/Summons.

SUMMARY OF DOCUMENTS TO BE SENT TO LAW ENFORCEMENT

1. A completed preliminary worthless check report for each check submitted.
2. A copy of the demand – 5 day letter (Notice and Demand Letter) sent to the offender
3. Original certified mailing receipts.
4. The original check(s) returned by the bank or the bank's certified copies

NOTICE AND DEMAND FOR PAYMENT OF A DISHONORED CHECK

(MUST BE SENT TO CHECK WRITER BY CERTIFIED MAIL ONLY)

_____, you are hereby notified that check number _____ issued by
(Defendant full name) (check number)
you on _____/_____/ 20___, made payable to _____, in the amount
(check date) (Business Name)
of $_____ and drawn upon the _____ Bank of
(check amount) (Bank Name)
_____, has been dishonored.
(Bank Address)

DEMAND is hereby made for the payment of the above-mentioned dishonored check. Pursuant to Minnesota Statute Section 609.535 and Minnesota Statute Section 604.113 you have five (5) business days from the date this notice was mailed to you to tender payment in the full amount to the holder of the check. The payment must be made by cash, certified check, cashier's check or a money order. The holder of the check may impose a service charge, not to exceed thirty dollars ($30.00), for each dishonored check, regardless of mailing a Notice of Dishonor.

If you fail to pay this check in full within five (5) business days, the holder of the check may turn over the dishonored check and all other available information to law enforcement and prosecuting authorities for criminal prosecution. Minnesota Statute declares that a person who is convicted of issuing a Dishonored Check may be sentenced to five (5) year imprisonment or a fine of $10,000.00 or both if the value of the check(s) is/are more than $500.00 or one (1) year imprisonment or a fine of $3,000.00, or both if the value of the check(s) is/are more than $250.00 but not more than $500.00, or ninety (90) days imprisonment or a fine of $1,000.00, or both if the value of the check(s) is/are less than $250.00.

You may also be subject to civil penalties for failure to make restitution within thirty (30) days. Civil penalties include, but are not limited to payment of interest, attorney's fees, a thirty dollar ($30.00) service charge, and a one hundred dollar ($100.00) civil penalty.

SIGNAGE

The following signage is required by Minnesota law to allow merchants to enforce collection of service charges and civil penalties. This must be posted where your customers can see the service charge at the time the check is accepted by the merchant. Copy as needed.

IT'S AGAINST THE LAW TO WRITE A BAD CHECK IN MINNESOTA

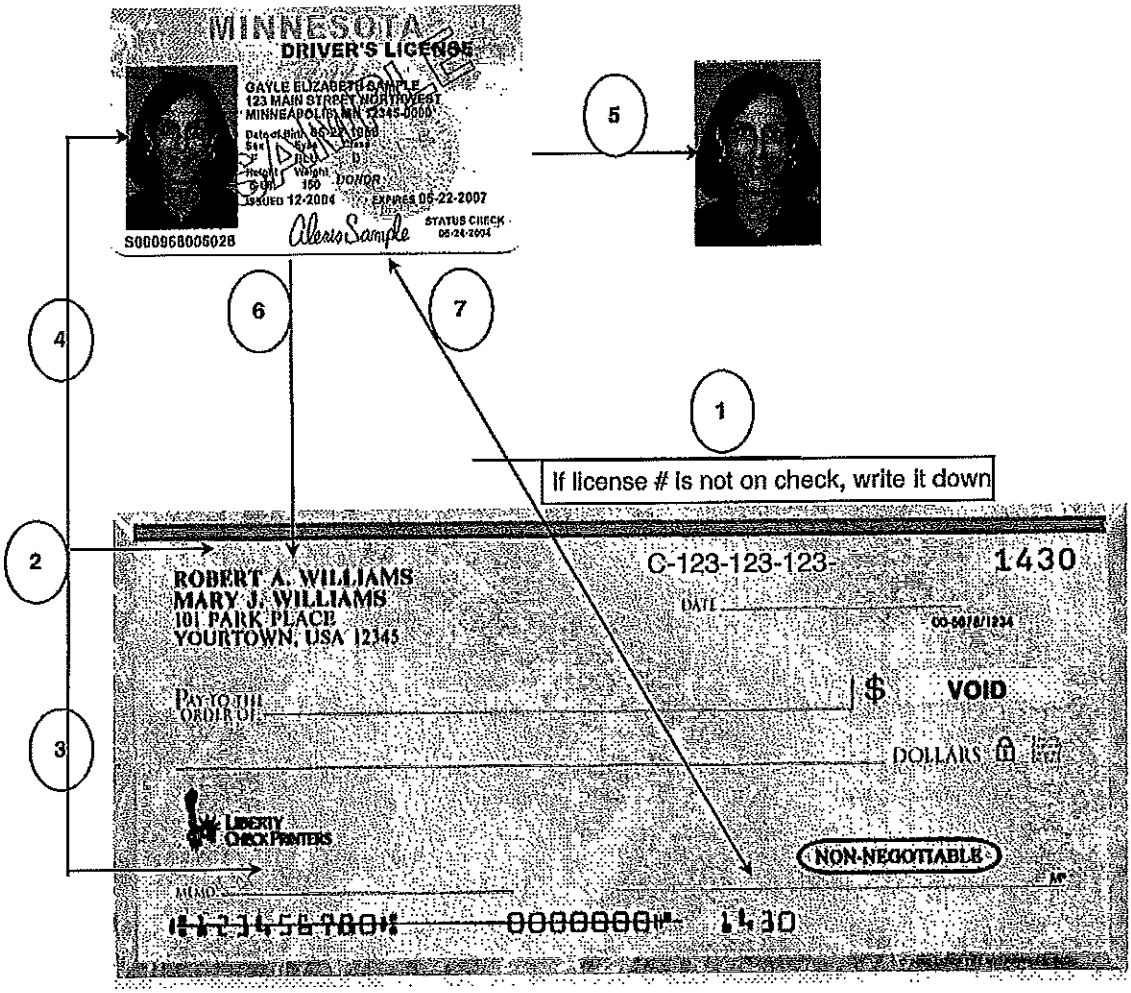
Checks returned to us for nonpayment are subject to a service charge of

$30

Additional civil penalty may be imposed on checks returned for nonpayment after 30 days.

MN Statute 604.113 **Minnesota Retail Merchants Association**

CHECK ACCEPTANCE PROCEDURES



1. **Record or circle the identification number (DL # D-123-123-123-123)**
2. **Have employee initial upper left corner**
3. **Record home or work telephone number**
4. **Record date of birth (i.e. DOB 1/29/72)**
5. **Make sure photo on identification card matches customer.**
6. **Make sure the identification card matches name and address on the check-** ***If time permits, write down good address as indicated by customer***
7. **Check the signatures on the identification card and match this signature to the signature on the check (endorsement line). If these signatures do not match, acceptance should be declined.**

Preliminary Worthless Check Report

Mail to

INFORMATION ABOUT YOUR BUSINESS

BUSINESS/INDIVIDUAL NAME	MAILING ADDRESS	CITY, STATE, ZIP CODE
NAME OF PERSON FILING REPORT	BUSINESS PHONE	ALTERNATE BUSINESS PHONE NUMBER YOU WISH TO BE CONTACTED ON:
EMAIL ADDRESS	CAN WE CORRESPOND WITH YOU VIA EMAIL? ◯ YES ◯ NO	BUSINESS FAX

INFORMATION ABOUT THE CHECK TAKEN

NAME OF EMPLOYEE OR PERSON WHO ACCEPTED THE CHECK	PHONE NUMBER	ADDRESS	DATE OF BIRTH
NAME OF ADDITIONAL WITNESS	PHONE NUMBER	ADDRESS	DATE OF BIRTH

CAN THE EMPLOYEE/INDIVIDUAL WHO TOOK THE CHECK IDENTIFY THE CHECK WRITER EITHER BY PHOTO LINE UP OR IN PERSON?	◯ YES ◯ NO
DO YOU HAVE A VIDEO RECORDING OF THIS CHECK WRITER?	◯ YES ◯ NO

COLLECTION ATTEMPTS OF THE BUSINESS

HAVE YOU MADE ATTEMPTS TO COLLECT THIS CHECK?	◯ YES ◯ NO

IF YES, CHECK THE MANNER IN WHICH YOU TRIED TO COLLECT
◯ WE SPOKE TO THEM IN PERSON ON THE FOLLOWING DATES_____
◯ WE CALLED THEM BY PHONE ON THE FOLLOWING DATES_____
◯ WE SENT THEM A LETTER VIA REGULAR MAIL ON THIS DATE_____
◯ WE SENT THEM A CERTIFIED LETTER, RETURN RECEIPT REQUESTED DATED_____
◯ OTHER, LIST HOW AND DATES_____

PLEASE LIST THE AMOUNT YOU PAID IF SENT BY CERTIFIED MAIL $_____

PLEASE LIST ANY ADDITIONAL COMMENTS THAT MAY BE HELPFUL IN COLLECTING THIS CHECK

The check in question is submitted for criminal prosecution. By submitting this check for prosecution, I agree NOT to accept restitution from the suspect or his/her agent. I certify that this report is true, accurate and complete to the best of my knowledge. Dated_____Signature_____Title_____