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Dear Merchant:

We want you to know we remain dedicated to actively pursuing those who intentionally defraud you by writing what they know to be a worthless check. We understand the obstacle these bad check writers pose to commerce and we want to do everything allowed by law to put them out of business.

Recent court decisions may require this office to go to trial on check cases on a more regular basis. We have no problems with this but to do so effectively we will need some help from the merchants. Like victims in other crimes, your cooperation is essential for us to succeed in court.

In order to effectively process the worthless check charges, we require merchants to fill one affidavit per check. The first part of our affidavit deals with the information gathered when the check is initially received by the merchant. It must be filled out and signed by the person who actually accepted the check. It is not acceptable for a manager or collection agency to sign this portion. The reasoning is quite simple. The person who accepts the check is our only witness and consequently may have to testify as to the correctness of the information he/she provides on the affidavit. By signing the affidavit, they are certifying that the information it contains is correct. If this person is no longer an employee, please note this on the signature line of the affidavit.

The second part of the affidavit is to be filled out only if a notice was sent. If the worthless check is stamped NSF, you are required by law to send a certified letter giving them ten(10) working days to make restitution. The person who sends out this notice must fill out the second part of the affidavit.

In order to curtail the problem worthless checks pose, we need your cooperation. Many worthless check cases could be avoided by careful screening. We suggest that your employee's follow these simple instructions:

- 1. Request a driver's license from check writer**
- 2. Insure that the person signing the check is a signer on the account**
- 3. Please obtain a physical street address, as we can not warrant a P.O. Box**
- 4. Ask for his/her place of employment**

We find a very high number of worthless checks are written for cash. Our office also suggests that merchants have a rubber stamp that your employee fills out on the back side of the check. The stamp may contain a place for the date of birth; social security number; race, sex, driver's license and state. This will insure that your employee's properly identify the check writer.

The following is an explanation of what you must do to file charges against someone who has written you an NSF or Account Closed check. Please read it carefully and have your employees read it as well.

Immediately upon receipt of an NSF check (Insufficient Funds) send the accused a certified letter with return receipt requested. Attached is a sample letter that you may use to help guide you. It is not required by law to send a certified letter to an accused whose check is stamped "Account Closed" although we encourage merchants to do so.

If after 10 working days have passed from the receipt of the letter and the individual has not made full restitution, prepare your affidavit to be turned over to our office for prosecution. If the check writer offers you the value of the check but refuses to pay the service charge, you may refuse to accept payment.

Once a charge has been accepted by our office it is then processed. If the individual is a habitual offender, we will immediately issue a warrant for his / her arrest. If the individual has no prior checks referred to our office, we will send them a notice advising them that full restitution must be made within our assigned due date or a warrant will be issued.

In addition to the amount of the check the law allows us to collect a \$15.00 service charge to be added to the amount of each bad check collected. Our office also collects a processing fee authorized by 1983 session of the Louisiana Legislatures. The fee is designed to have the check writer pay a part of the cost incurred to the District Attorney's office.

Once warrants are issued and arrests are made, the matter will be referred to court. The court most always requests that restitution be made through our office. Please keep in mind that once a check has been turned over to our office for prosecution, it could take months to three years to receive restitution. If the defendant has just made an error, payment is usually made quickly. If the defendant is a habitual offender, it could take years to receive restitution.

Please remember, once a check is turned over to our office for prosecution, the merchant must not accept any payment for the worthless check(s). If a payment is received by one of your employees, do not deposit it. You have a choice to either mail it back to the defendant and inform them they need to contact our office or forward the payment to the Worthless Check Bureau (money order or cashier's check only) to be processed. At that time, we will send the check writer a letter explaining that the merchant has been paid but there are still outstanding fees assessed to the defendant (not the merchant) which need to be paid. This will prevent merchants from being exposed to a false arrest suit. A good policy to follow would be if you don't have the check to return do not accept payment.

The following checks will not be accepted for prosecution by our office:

- A. Payroll checks - contact Federal Office, Wage and Hour Division at the Department of Labor
- B. Checks over 120 days old- problem of identification
- C. Checks written for "CASH "- check must be made payable to the person filing charges
- D. Two Party Checks - problem of proving intent to defraud and identification
- E. Checks with Stop Payment or Refer to Maker stamped on them - this is a civil matter
- F. Credit Card checks
- G. Pay day or checks made out for a loan
- H. Checks where there is no physical address - can not warrant a P.O. Box
- I. Out of State checks - We must have bank personnel and witnesses, merchant must write a letter stating that they agree to pay all expenses to transport a book-keeper of the bank to Calcasieu Parish if needed for prosecution.
- J . Checks without identification - Driver's license number, I.D., etc...

The major problem we face is locating the individual. A large number of those individuals for whom arrest warrants are issued are never located by law enforcement. For this reason, we **urge** you to obtain other information such as place of employment and telephone number. **Prevention is the best way to avoid receiving worthless checks.** A firm check policy avoids the problem of having to prosecute patrons of your establishment. Please have all your employees review this letter. It is also a good idea to keep a record of names of check writers that you have turned over to this office.

Sincerely,

Worthless Check Bureau
Calcasieu Parish District Attorney's Office

Date: _____

Dear _____,

Your check numbered _____ made payable to _____
in the amount of \$ _____ dated _____ and drawn on the bank of
_____ in the city of _____ Louisiana,
has failed to clear the bank because of insufficient funds. If the above described check is not
redeemed in full plus \$ _____ NSF Charge within ten(10) working days from the receipt
of this letter, it will be referred to the Calcasieu Parish District Attorney's Office for prosecution.

Sincerely,

Remember to get:

 Date of Birth

 DL #

 Physical Address

We have to have these to Prosecute!!



AFFIDAVIT OF RECEIVING A WORTHLESS CHECK

Merchant Name: _____ Phone: _____

Address: _____ Zip Code: _____

Affiant: _____ Phone: _____

(Person who accepted check)

Address: _____ Zip Code: _____

(Complete Physical Address)

Accused Name: _____ Phone: _____

(Person who wrote check)

Address: _____ Zip Code: _____

(Complete Physical Address)

DL State: _____ # _____ SS# _____

DOB: _____ Race: _____ Sex: _____ POE: _____

Check Info: Date Written _____ Amount _____ Check # _____

Was Check Offered By Accused? _____ Someone Else? _____

Merchandise Purchased: _____

Identified by DL? Y _____ N _____ Identified by other means? Y _____ N _____

If by other means, please explain: _____

I certify that the above information is true and correct to the best of my knowledge and that I did receive the above described check from a person identifying themselves as previously listed. At no time did the accused represent to me that the check submitted would not clear his her bank. I had no knowledge that the check was invalid. I further certify that I am furnishing this information to the Calcasieu Parish District Attorney's Office for the purpose of filing a worthless check charge. I agree to testify in court as to the accuracy of the above fact.

Signature of Affiant: _____ Date: _____

(Person who accepted check, if no longer employed, manager must sign)

MERCHANT COMPLIANCE W/NOTICE REQUIREMENT INFORMATION

(To be filled out only if certified letter is sent)

On _____, 20____, a demand letter was sent by certified mail, return receipt requested, to the accused by:

Name: _____ Address: _____ Zip _____ Phone: _____

(Person who sent Certified Letter)

Demand letter was Addressed to: Name _____

Complete Address: _____

The return receipt for the demand letter is attached (Green Card) (Y/N) _____

The return demand letter sent is attached and **UNOPENED** (Y/N) _____

Signature of Affiant: _____ Date: _____

(Person who sent Certified Letter)