Sheriff Eric Flowers

INDIAN RIVER COUNTY SHERIFF'S OFFICE

WORTHLESS CHECK PACKET

It is the intent of the Indian River County Sheriff's Office and, specifically, the Economic Crimes component of the Criminal Investigations Unit, to assist individuals and businesses who have been victimized by writers of worthless checks.

Once a worthless check packet has been received by you, the victim, an Investigator will make all attempts possible to resolve the matter in a timely manner, prior to court action being taken. The goal is to make you financially whole.

If the matter is not resolved, the case will be presented to the State Attorney's Office for review. The State Attorney's Office makes the decision whether or not to prosecute. If that office declines to prosecute, the documents you submitted will be returned to you.

In virtually all cases where the check writer is found guilty or pleads guilty in court, restitution is ordered as a part of the probation portion of the sentence. Alternative ways for you (the victim) to collect the debt and fees owed are:

1. Filing a civil claim in Small Claims Court if the amount of the check is less than $8,000.00. Further information on small claims actions can be obtained through the Office of the Indian River County Clerk of the Court and Comptroller.

2. Placing or assigning the debt owed with a private debt collector registered under part VI of Florida State Statute Chapter 559 and authorized under Florida State Statute 832.10. As stated in Florida State Statute 832.10, this election must be "prior to presenting a complaint about a dishonored check to a state attorney".

Please carefully read the information contained in this packet. If you have any questions, contact our Economic Crimes Unit at 772-978-6124 or EconomicCrimesAnalyst@ircsheriff.org.

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REQUIREMENTS

The following requirements must be met prior to submitting a Worthless Check Packet to the Indian River County Sheriff's Office.

1. Check must have been given in, received in, or mailed from the jurisdiction of Indian River County.
2. Identification of accused. (See Identification Section below)
3. Check must not have been post-dated at the time it was given.
4. Taker of the check must not have been asked by the party presenting the check, at the time of presentation, to hold or delay depositing the check for any period of time.
5. There was NO reason to believe the check would not be honored at the time it was presented to the taker. If the answer to this question is yes, then the incident is a civil matter.
6. Check must be plainly marked with the reason for its return by the bank on which it was drawn.
   Dishonored checks are considered checks stamped by the bank as NSF, Insufficient Funds, Refer to Maker, Account Closed.
   Stop payment checks will be stamped by the bank as Payment Stopped or Stop Payment.

Checks marked UNCOLLECTED FUNDS, UNAVAILABLE FUNDS, or HOLD ON FUNDS cannot be processed.

7. A demand letter must be sent to the check writer at their last known address.
   Dishonored Check Demand Letter and Stop Payment Demand Letter are at the end of this packet.
   The demand letter can be sent one of two ways:
   a. By certified or registered mail, evidenced by return receipt, or;
   b. By first-class mail, evidenced by an affidavit of service of mail.

   The demand letter requirement can be waived if the check is returned for the reason of Account Closed.

If any of these requirements are not met, this agency cannot accept the check for prosecution.

The filing of a worthless check complaint does not guarantee criminal prosecution or restitution.

This agency will not accept Worthless Check Packets if partial payment has been accepted for the worthless check.

Identification

Identification of the check writer is the most important requirement of the check taker.

Poor check writer identification information is the most common reason for failure to prosecute worthless check cases. The State Attorney's Office requires certain information about the check writer in order to pursue prosecution; therefore, certain identifying information must be included on the Worthless Check Affidavit.

Identification of the check writer or person presenting the check can be established by ONE of the following means:

1. **Personal recognition** – The taker of the worthless check knows the check writer and can supply the following information: **full name, date of birth, race, sex, and last known address**. (*This information must be provided in order to have a warrant issued*), or;

2. **Check writer produced photo identification at the time the check was presented.**

    a. ID type and number *must* be written on the check by the taker. Also, the check writer's sex and date of birth, (with home address and phone number if not pre-printed on the check) *must* be obtained. (**IMPORTANT**: If the ID type and number is pre-printed or written on the check by the presenter, *TAKER MUST VERIFY* that the information is correct.)

    b. Taker of the check *must be able to testify* that they compared the photo or ID to the person presenting the check and they appeared to be one in the same, or;

3. If your business uses **check cashing authorization cards** issued by the business taking the check, please contact (772) 978-6124 for specific requirements, or;

4. **If the check is received by mail or delivery** to a representative of the payee, e.g., truck driver, identity may be established by providing the original contract, order or request for services, **which bears the signature of the person who signed the check**.

WORTHLESS CHECK PACKET

Submittal Checklist

If you feel all the requirements have been met, submit the following items:
(*Keep a photocopy of all documents for yourself.*)

- ☐ Check. (Original), OR the document returned by the bank which may be labeled "Legal Copy"
- ☐ Unclaimed or refused demand letter OR the signed return receipt. (Original)
- ☐ Worthless Check Affidavit. (Original)
- ☐ Witness List. (Original)
- ☐ Stop Payment Statement Form *if applicable*. (Original)
- ☐ Demand Letter. (Copy)
- ☐ Check cashing card application *if applicable* (Copy)

If the check writer pays the dishonored check after you have turned in the Worthless Check Packet, contact our Economic Crimes Unit at 772-978-6124 or email EconomicCrimesAnalyst@ircsheriff.org as soon as possible, with the date the monies were received.

Worthless Check Packets cannot be faxed to the Indian River County Sheriff's Office. To submit a packet, please mail it or drop it off with Records in the main lobby of the Sheriff's Office. When mailing the packet please address the envelope as follows:

Indian River County Sheriff's Office
ATTN: Economic Crimes Unit
4055 41st Avenue
Vero Beach, FL 32960-1808
Attention: Worthless Checks

Florida State Service Charges for Worthless Checks

Effective 10/19/1986 - §832.08(5)

The following service charges are what the State allows the victim of the worthless check to charge the check writer. The Sheriff's Office *does not* charge any fees for processing Worthless Check Packets.

Check Amounts	Service Charges
$1.00 - $50.00	$25.00
$50.01 - $300.00	$30.00
Checks over $300.00	$40.00 or 5%, whichever is greater

Worthless Check Affidavit

Important – This form must be filled out, as completely as possible, by the person seeking prosecution of the worthless check. One affidavit must be prepared for each check. **INCOMPLETE AFFIDAVITS WILL NOT BE FILED.**

I, _____, HEREBY STATE THAT ON THE _____ DAY OF
(NAME OF PERSON COMPLETING THIS FORM) *(DATE OF OFFENSE)*

_____, 20___, _____ OF,
(DEFENDANT NAME) – LAST *FIRST* *MIDDLE*

_____
(DEFENDANT'S ADDRESS OR PLACE WHERE HE/SHE CAN BE LOCATED) **P.O. BOXES WILL NOT BE ACCEPTED**

Committed the crime of issuing a worthless check in violation of §832.05 of the Florida statues as follows:

Check Writer/Defendant Information: (This is the person that physically wrote the check)

Name: _____Date of Birth: __/__/____ Sex: **M / F** Race: _____

Hgt: _____ Wgt: _____ Hair Color: _____ Eye Color: _____ Social Security: ____-___-_____

Home Address (P.O. Boxes will not be accepted) and contact phone number(s):

_____

_____Phone: (_____)_____-_____

Defendant Information: (If different than above check writer) (This is the business/company, if applicable)

Business Name: _____

Business Address (P.O. Boxes will not be accepted) and contact phone number(s):

_____

_____Phone: (_____)_____-_____

1. What is the relation to the check writer and how was identification verified? _____

   _____ _____
2. Can the taker of the check identify the person who provided the check? Yes / No (circle answer)

   If yes, the taker of the check **MUST** initial here: _____ (initials)
3. Did the taker of the check initial the check? Yes / No (circle answer)
4. Name of the person who took the check: _____
   Business/Home Address:_____

   _____
   Business/Home Phone Number: _____
5. Payee(s) on check: _____

   Payee's address: _____

   _____

   Payee Business/Home Phone Number: _____

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6. Location of offense (address the check was received):_____

   _____

7. Is there a photo and/or video footage of the transaction? Yes / No (circle answer)

8. Date and time check was passed: _____

   (IF CHECK RECEIVED BY MAIL, GIVE THE DATE RECEIVED BY WHOMEVER ACCEPTED THE CHECK)

   If the check was received by mail, you must present the original contract or request for services, which the check was written for.

9. Amount of check: $_____ Service Charge: $_____
   (See Page 4 for service charge chart)

10. What was the check written for: Cash___ Rent____ Merchandise _____ Services _____ Other_____

    Specify: _____

If Rent:	If Merchandise:	If Services:
First Month? ____ Continuing month? _____ **Attach copy of rental agreement**	Kind: _____ _____	Kind: _____ **Attach copy of invoice – Indicate total for parts and total for labor**

11. Reason the check was dishonored:

    - ○ INSUFFICIENT FUNDS (NSF)
    - ○ ACCOUNT CLOSED
    - ○ STOP PAYMENT
    - ○ OTHER:
      (*EXPLAIN*)_____

12. Was a demand letter sent? Yes / No (circle answer)
    If no, state reason why: _____
    Attach the receipt for certified mail to this packet. If returned to sender, include the original envelope as well.

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WORTHLESS CHECK PACKET

Read Carefully

I HEREBY SWEAR, UNDER PENALTY OF PERJURY, THAT ALL OF THE ABOVE STATEMENTS ARE TRUE, THAT THE CHECK INVOLVED WAS NOT POST-DATED WHEN RECEIVED, NOR DID THE TAKER OF THE CHECK HAVE ANY REASON TO BELIEVE THAT THE WRITER OF THE CHECK DID NOT HAVE SUFFICIENT FUNDS ON DEPOSIT TO ENSURE PAYMENT OF SAID CHECK, THAT THE TAKER OF THE CHECK DID NOT AGREE TO HOLD THE CHECK FOR A PERIOD OF TIME BEFORE CASHING, AND THE CHECK WAS NOT GIVEN FOR SECURITY. THE TAKER OF THE CHECK CAN IDENTIFY THE ABOVE-NAMED PERSON AS THE ONE WHO GAVE THE CHECK AND WILL APPEAR IN COURT WHENEVER REQUIRED TO DO SO.

Sworn to and subscribed before me this _____ day of _____, 20____.

_____
Notary Public
Personally known: _____
ID Taken _____

Seal:

I SWEAR THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

_____
AFFIANT SIGNATURE DATE

_____
AFFIANT (PRINT OR TYPE YOUR NAME)

Witnesses: List person(s) accepting the check first. Indicate owner of business or corporate officer who will be available to come to court at the time of the trial, if victim is a business.

Name and Position or DOB	ADDRESS	Phone Number
1. *Victim - Required*		
2. *Check Taker – Required (if separate)*		
3. *Custodian of Records*		
4. *Other Witness*		

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STOP PAYMENT STATEMENT FORM

If the check you are turning in with this Worthless Check Packet was returned for the reason of STOP PAYMENT, please complete this form.

VICTIM:
Name: _____

Address: _____

CHECK WRITER:
Name: _____

In the space below explain the circumstances involving the stop payment and any conversations with the check writer about the reason for the stop payment. *(If more space is required, please use the back of the page)*

_____
_____
_____
_____
_____
_____

NOTE: Stopping payment on a check with the intent to defraud is against the law in the State of Florida. Intent to defraud is established by the act of uttering the check and stopping payment on the check after receiving goods or services. Case by case analysis may require some cases to be referred to civil court.

In addition, please utilize the Stop Payment Demand Letter in this packet.

_____ _____

Victim Signature *Date*

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STOP PAYMENT DEMAND LETTER

Date: _____

To: _____

_____

_____

You are hereby notified that a check, numbered _____, in the face amount of $_____, issued by you on _____, drawn upon _____, and payable to _____, has been dishonored, Pursuant to Florida Law, you have thirty (30) days from the receipt of this notice to tender payment of the full amount of such check plus a service charge. Reference the service charge chart below, the total amount due is $_____.

Check Amounts	Service Charges
$1.00 - $50.00	$25.00
$50.01 - $300.00	$30.00
Checks over $300.00	$40.00 or 5%, whichever is greater

Unless this amount is paid in full within the thirty (30) day period, the holder of the check or instrument may file a civil action against you for three (3) times the amount of the check, but in no case less than $50.00, in addition to the payment of the check plus any court costs, reasonable attorney fees, and any bank fees incurred by the payee in taking the action, as provided in Florida State Statute 68.065.

Personal checks will not be accepted. Repayment must come to us by cashier's check, money order, or by cash.

Make Payable to:

Name:_____

Address: _____

_____

By: _____
Signature *Date*

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DISHONORED CHECK DEMAND LETTER

Date: _____

To: _____

_____

_____

You are hereby notified that a check, numbered _____, in the face amount of $_____, issued by you on _____ (date), drawn upon _____ (bank), and payable to _____, has been dishonored. Pursuant to Florida Law, you have fifteen (15) days from the date of this notice to tender payment of the full amount of such check plus a service charge. Reference the service charge chart below.

Check Amounts	Service Charges
If the face value does not exceed $50	$25.00
If the face value exceeds $50 but does not exceed $300	$30.00
If the face value exceeds $300	$40.00 or an amount of up to 5% of the face amount of the check, whichever is greater

The total amount due (including the above service charge) is $_____.

Unless this amount is paid in full within the time specified above, the holder of such check may turn over the dishonored check and all other available information relating to this incident to the state attorney for criminal prosecution. You may be additionally liable in a civil action for triple the amount of the check, but in no case less than $50, together with the amount of the check, a service charge, court costs, reasonable attorney fees, and incurred bank fees, as provided in s. 68.065, Florida Statutes.

Personal checks will not be accepted. Repayment must come to us by cashier's check, money order, or by cash.

Make Payable to:

Name:_____

Address: _____

_____

By: _____
Signature *Date*