

**CITY OF ROCHESTER, MINNESOTA
POLICE DEPARTMENT**

101 4TH Street Southeast
Rochester, Minnesota 55904-3761
507-328-6800 • Fax 507-328-6975

To: Fraudulent Check and Credit Card Victims

From: Rochester Police Department

Subject: FRAUDULENT CHECK AND CREDIT CARD REPORTING

The Rochester Police Department has adopted the following guidelines and procedures to address fraudulent checks and the acceptance of checks and credit cards, to include the investigation and successful prosecution. The goal by following the recommendations is to reduce the number of fraudulent check and credit card occurrences. These guidelines and procedures have been formulated with the participation of both the City and County Attorney's offices.

- ✓ Fraudulent Check Reporting Procedures (PAGE 2)
- ✓ "Fraudulent Check Report" Form (PAGE 3-4)
- ✓ Categories of Bad Checks (PAGE 5)
- ✓ Checks to AVOID (PAGE 6)
- ✓ Check Processing Requirements (PAGES 7-9)
- ✓ "Forged" Checks (PAGE 10)
- ✓ "Stop Payment" Checks (PAGE 11)
- ✓ Credit Cards (PAGE 12)
- ✓ Alternatives to Prosecution (PAGE 13)
- ✓ "Notice and Demand for Payment of Dishonored Check" form (PAGE 15)

By strictly adhering to these guidelines, you should realize a decrease in the losses incurred due to bad checks and credit card sales. You and your employees are urged to familiarize yourself with this information.

This information is being provided to you by the Rochester Police Department. If you should have any questions, please do not hesitate to contact the Rochester Police Department at 507-328-6800.

07/2017

FRAUDULENT CHECK AND CREDIT CARD REPORTING

PROCEDURES

Before further action can be taken, the following procedure must be strictly adhered to:

- ✓ Complete the enclosed Rochester Police Department “*Fraudulent Check Report*” form to determine if possible prosecution can be continued.
- ✓ The case will only be considered if the loss is \$1,000.00 or greater, which is the minimum necessary for the case to be charged as a felony level crime.
- ✓ Complete a “*Notice and Demand for Payment*” for NSF and Account Closed checks and send it to the account holder at the address listed on the check. If you have knowledge that the account holder has moved, send another “*Notice and Demand for Payment*” to the new address. One notice must be sent to the address listed on the check.
- ✓ Send the “*Notice and Demand for Payment*” by Certified Mail. It is best to use Certified Mail as you are then able to know by receipt of the green card whether or not the account holder received your notice. If the account holder has moved or does not pick up the letter at the post office, the green card will be returned to you along with the letter that you sent. We recommend you always use Certified Mail and maintain a copy of the notice.
- ✓ After five business days have passed from the time the account holder signed the Certified Mail receipt, or after the undelivered notice is returned to you, the matter may be presented for prosecution by following instructions as contained in the Rochester Police Department “*Fraudulent Check Report*” form.

ROCHESTER POLICE DEPARTMENT REPORT

FRAUDULENT CHECK

<input type="checkbox"/> ACCOUNT CLOSED	<input type="checkbox"/> NO ACCOUNT	DATE REPORTED:	CASE FILE #
<input type="checkbox"/> NON-SUFFICIENT FUNDS	<input type="checkbox"/> OTHER:		
CHECK PAYABLE TO:			WORK PH:
ADDRESS:		CITY/STATE/ZIP:	
BUSINESS MANAGER:		TITLE:	
PERSON WHO INITIALLY ACCEPTED THE CHECK FROM THE CHECK PASSER (FULL NAME):			DATE OF BIRTH:
HOME ADDRESS:		CITY/STATE/ZIP:	
HOME PH:	WORK PH:	CELLULAR PH / PAGER: (CIRCLE)	
YES	NO	the following questions must be answered	
<input type="checkbox"/>	<input type="checkbox"/>	1. Was the check passed outside of Rochester? If so, contact investigating agency where check was passed.	
<input type="checkbox"/>	<input type="checkbox"/>	2. Was the check received by mail?	
<input type="checkbox"/>	<input type="checkbox"/>	3. Is the check from out-of-state? (either the passer or bank)	
<input type="checkbox"/>	<input type="checkbox"/>	4. Is the check a two or more party check?	
<input type="checkbox"/>	<input type="checkbox"/>	5. Was the check dated for a future date other than the day written? (post-dated)	
<input type="checkbox"/>	<input type="checkbox"/>	6. Was the check written to cover a previous "bad" check?	
<input type="checkbox"/>	<input type="checkbox"/>	7. Was the check for a pre-existing debt, payment on account, charge account, etc.?	
<input type="checkbox"/>	<input type="checkbox"/>	8. Is the check illegible or appeared to be altered in any way? (Date, amount, etc.)	
<input type="checkbox"/>	<input type="checkbox"/>	9. Is the check a counter/starter check?	
<input type="checkbox"/>	<input type="checkbox"/>	10. Was agreement made to hold the check?	
<input type="checkbox"/>	<input type="checkbox"/>	11. Is the check more than 90 days old?	
<input type="checkbox"/>	<input type="checkbox"/>	12. Was a Temporary (paper) Drivers' Certificate used for identification?	
<input type="checkbox"/>	<input type="checkbox"/>	13. Was full name (first/middle/last) and date of birth obtained from the person signing the check?	
<input type="checkbox"/>	<input type="checkbox"/>	14. Was the check completed in the clerk's presence and signed by an account holder?	
<input type="checkbox"/>	<input type="checkbox"/>	15. Is the address of the account holder on the check?	
<input type="checkbox"/>	<input type="checkbox"/>	16. Was the account holder's full name, date of birth and address compared to a state issued driver's license or state issued photo identification card?	
<input type="checkbox"/>	<input type="checkbox"/>	17. Is a Minnesota Drivers' License or Identification Card number on the check?	
<input type="checkbox"/>	<input type="checkbox"/>	18. Did the clerk accepting the check place their employee number or initials on the check?	
<input type="checkbox"/>	<input type="checkbox"/>	19. Can the clerk accepting the check identify the passer?	
IF ANY QUESTION 1 THROUGH 12 IS ANSWERED "YES", OR ANY QUESTION 13 THROUGH 19 IS ANSWERED "NO", THE CHECK MAY NOT BE ACCEPTED FOR INVESTIGATION AND/OR PROSECUTION.			

FRAUDULENT CHECK REPORT CONTINUED ON PAGE 3

CHECK PASSER (FULL NAME):		DATE OF BIRTH:	
ADDRESS OF ACCOUNT HOLDER:		CITY/STATE/ZIP:	
MN DL # OR ID #:		PHONE #:	
BANK CHECK DRAWN ON:		ACCOUNT #:	
DATE OF CHECK:	CHECK #:	AMOUNT OF CHECK:	BANK SERVICE CHARGE:

ANY ADDITIONAL WITNESSES, INFORMATION OR UNUSUAL CIRCUMSTANCES THAT WOULD AID IN RECALLING THE INCIDENT, INCLUDING THE MERCHANDISE AND / OR SERVICES OBTAINED, ANY VEHICLES THE PASSER MAY HAVE USED (LICENSE NUMBER), ETC.:

DO YOU HAVE VIDEO OR A RECORDING OF THE SUBJECT AT THE TIME OF THE TRANSACTION?

YES _____ No _____ IF YES PLEASE TURN OVER TO POLICE WHEN FILING THE POLICE REPORT

INCLUDE THE FOLLOWING WITH THIS FORM WHEN REPORTING:

- ✓ **NOTICE AND DEMAND OF PAYMENT, OR COPY IF NOT RETURNED.**
- ✓ **CERTIFIED MAIL RECEIPT, OR RECEIPT ATTACHED TO CERTIFIED LETTER IF RETURNED.**
- ✓ **ANY BANK CORRESPONDENCE.**
- ✓ **ORIGINAL CHECK, OR LEGIBLE COPY OF BOTH THE FRONT AND BACK OF THE CHECK.**

ALL NON-SUFFICIENT FUNDS, ACCOUNT CLOSED, REFER TO MAKER AND ELECTRONIC CHECKS REFER TO PAGES 16-17 AND MAKE A REPORT WITH THE ROCHESTER POLICE DEPARTMENT AT:

Rochester Police Department
Law Enforcement Center
101 SE 4th St.
Rochester, MN 55904-3761
Phone number: 507-328-6800

Fax number: 507-328-6975

Always make an appointment before a visit

SIGNATURE, COMPANY AND TITLE OF REPORTING PERSON:	DATE:
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CATEGORIES OF BAD CHECKS

If a check is bad, it will be returned by the bank with a specific category or classification stamped on it. The common categories are as follows:

- ✓ ***Accounted Closed or Closing***: Closed by the bank or by the person named on the check.
- ✓ ***No Account***: Account either never existed or has been closed for a long period of time.
- ✓ ***Insufficient or Non-Sufficient Funds***: The account does not have enough money in it to cover the check.
- ✓ ***Forgery or Unauthorized Signature***: Signature on file does not agree with that on the check, or the account holder has claimed they did not write the check.
- ✓ ***Stop Payment***: The account holder has requested the bank not to pay this check for some reason.

A worthless check or credit card sale can be the basis of a criminal prosecution only if the particular facts constitute a violation of criminal law and if the prosecution is able to prove all the elements of the offense. It is the position of the Rochester Police Department to accept check or credit card reports only for the purpose of prosecution. Prosecution *does not guarantee* restitution, although restitution is usually required by the courts in most cases.

Not every “bad” check or credit card can be prosecuted. You may have to pursue action through the civil courts. The police do not have authority to pursue civil matters, these you will have to handle yourself.

CHECKS TO AVOID

The following checks if accepted may be difficult to investigate and/or prosecute:

- ✓ *Checks not passed in Rochester.*
- ✓ *Checks received by mail.*
- ✓ *Out-of-state checks.* These are checks where either the passer or the bank is out of state. We are unable to obtain the information needed to prosecute.
- ✓ *Two or more party checks.* These checks cannot be prosecuted as the signer of the check is not the passer. Therefore, the passer cannot be held accountable and the signer did not pass the check in your presence.
- ✓ *Post-dated checks.* These are checks dated for a date usually for some time in the future, other than the date on which the party received the merchandise/service.
- ✓ *Checks which are illegible or appeared to be altered.* This includes account holder information, date, amount, etc.
- ✓ *Checks on which an agreement was made to hold* for any period of time before presenting to the bank institution.
- ✓ *Checks not completed in your presence* and/or not signed by a designated account holder.
- ✓ *Counter or starter checks.* These are checks on which there is no check number and/or account holder information.
- ✓ *Checks which are on account or installment payment.* This establishes credit, which is a civil matter.
- ✓ *Checks taken for previously bounced checks.* Never accept a check as payment for a check that has bounced; we recommend cash or money orders. If the second check also bounces, neither check can be prosecuted as you have established credit, which is a civil matter.
- ✓ *Checks which are written significantly over the amount of purchase.*

If in doubt, do not accept the check. A check is merely a piece of paper. It is not the same as cash. If you would not extend the person credit, do not accept the check.

In addition, the following checks will **not be accepted for prosecution:**

- ✓ “Stop Payment” checks. (SEE PAGE 19)
- ✓ Checks submitted for prosecution in excess of 90 days from the date the check is written.
- ✓ Checks for which the “Notice and Demand for Payment” have not been sent to the maker. (SEE PAGES 16-17)
- ✓ Checks for which a temporary (paper) driver’s certificate was used as a means of identification.
- ✓ Checks for which a State of Minnesota photo driver’s license/identification card was not used as a means of identification.

CHECK PROCESSING REQUIREMENTS

At the time of acceptance, the following information must be recorded on the check. If it is preprinted, you may circle the information *acknowledging* that the information matches the Minnesota Driver's License or Identification Card that is shown at the time of the transaction or, the information can be written on the check by the person accepting it:

1. Full name (which includes first, middle, and last), and date of birth of the party passing the check.
2. Address.
3. State of Minnesota Drivers' License or Identification Card number.
4. Initials and/or employee number, if applicable, of the clerk accepting the check.

The Rochester Police Department will not accept any checks for prosecution that do not have all of the above information recorded on the check.

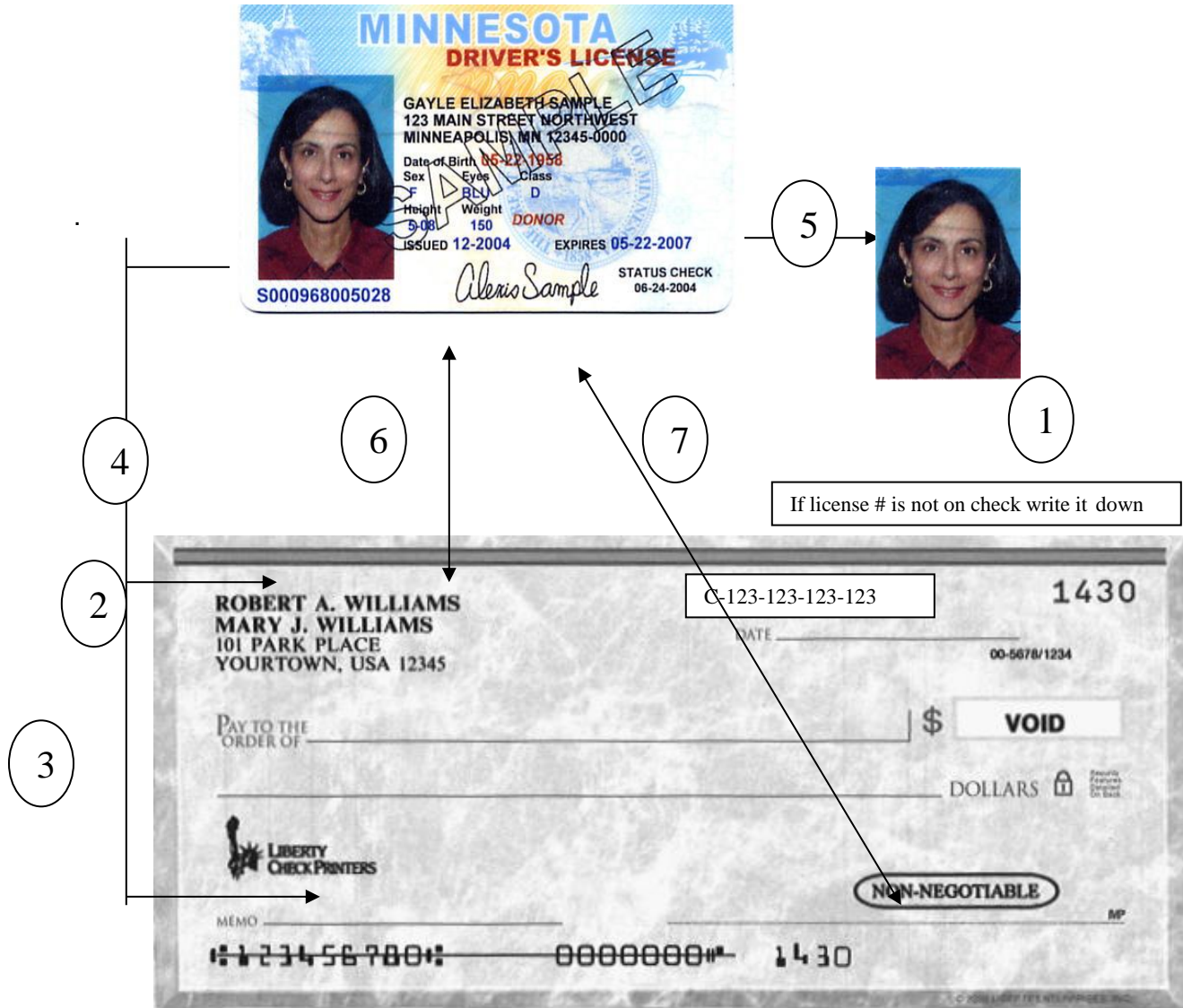
The following procedure is suggested by the Rochester Police Department to be used, in the order given, when accepting payment by check:

- ✓ After receiving the check, ask the customer for a photo Minnesota Drivers' License or Identification Card. Remember, these are the only acceptable means of identification without which there can be no prosecution if the check is later determined to be "bad".
- ✓ Ask the customer for:
 1. Middle Name (verify you have a full name)
 2. Date of Birth
 3. AddressIf any one of the above is incorrectly given as it appears on the photo Minnesota Drivers' License or Identification Card, *do not accept the check.*
- ✓ Compare the account holder information (DL # or ID #, address, and signature) on the check with the corresponding DL or ID Card. If any one of the above does not correspond, *do not accept the check.*
- ✓ Compare the photo and physical description on the DL or ID Card with the check writer. If the above does not match, *do not accept the check.*

For successful prosecution, the person accepting the check must be able to appear in court, if required; and, under oath, personally identify the person who signed the check.

The Rochester Police Department suggests you create a printed, step-by-step policy/procedure (complying with the above). This printed procedure can be used to train employees and be

displayed for all employees to view when accepting checks and, if required in court testimony, it can be shown to the court and stated it is consistently followed.



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) and middle name (to verify you have a full name)
5. Make sure photo on identification card matches customer
6. Make sure the identification card matches the name and address on the check

If address on check isn't correct, 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.**

Make sure you copy DL number off of driver's license, not check as older checks may not reflect a new driver's license number.

- ✓ Checks that have met the above criteria should be reported to the Rochester Police Department at:

Rochester Police Department
Law Enforcement Center
101 SE 4th St.
Rochester, MN 55904-3761
Phone number: 507-328-6800
Fax number: 507-328-6975
Always make an appointment before a visit

Prosecution procedure continued on page 17

**When filing a report with the Rochester Police Department
please give the reporting officer the following:**

1. A copy of the "Notice and Demand for Payment".
2. The signed Certified Mail Receipt returned to you, or the green receipt card attached to the "Notice and Demand for Payment" letter if the letter was not claimed.
3. The original check or a legible copy of both the front and the back of the check.
4. The completed Rochester Police Department "Citizen Fraudulent Check Report" Form.
5. Any video or recordings of the customer at the time of the transaction.

FORGED CHECKS

By following the previously listed procedures in accepting checks, you should have a minimum for forged checks. If you should receive a forged check, the following items need to be completed:

- ✓ You have determined the check is not included among the applicable “Checks to Avoid,” as previously described.
- ✓ You have determined that all “Check Processing Requirements” have been complied with.
- ✓ You have obtained from the account holder the name of the police department and police case file number, reporting where the check(s) were lost or stolen.
- ✓ You have obtained from the account holder an “Affidavit of Forgery.”
- ✓ You have completed the “Fraudulent Check Report.”
- ✓ You have learned the true identity of the check passer. It is suggested you periodically contact the bank and/or account holder to determine if they have been notified of prosecution in another jurisdiction, thus possibly leading to identification. In addition, it is required that the person accepting the check must be able to, under oath, personally identify the person who signed the check.

If you can comply with all of the above, call the Rochester Police Department at 507-328-6800 so a report can be taken, the investigation continued, if applicable, and prosecution pursued.

If you know the check is forged and is in-progress, immediately call the Rochester Police Department by dialing 911.

“STOP PAYMENT” CHECK

A “Stop Payment” check is not a criminal matter. There is an assumed customer dissatisfaction with the purchased product or service, which is a civil matter. However, if it can be established that the customer intended to defraud, such action is then criminal.

To help establish that intent, the Rochester Police Department suggests you send a letter via Certified Mail to the customer/account holder containing the following:

- ✓ Acknowledgement of receipt of the “Stop Payment” check on received date.
- ✓ Statement identifying the product or service received.
- ✓ Courteous inquiry as to why the dissatisfaction.
- ✓ Offer of remedy to exchange or return for full refund.
- ✓ Request a written reply within 15 business days of receipt of the letter.
- ✓ Statement that failure to reply will necessitate you’re reporting a theft matter to the Police Department.
- ✓ For those checks *over* \$1,000.00 report to the Rochester Police Department and complete the following:
 - You have determined the check is not included among the applicable “Checks to Avoid,” as previously described.
 - You have determined that all “Check Processing Requirements” have been complied with.
 - You have completed the “Fraudulent Check Report.”

Upon completing the above, the matter may be submitted for prosecution consideration following the procedure as outlined in submitting Worthless checks. You are merely substituting your composed letter in place of the “Notice and Demand for Payment”.

CREDIT CARDS

Credit card (financial transaction) fraud generally falls within two areas: 1) unauthorized use and/or forger of the credit card transaction; and 2) use of expired/cancelled card by card holder.

The Rochester Police Department suggests full name identification including first/middle/last name and date of birth be obtained and written on the credit card slip when accepting credit cards. Without the full identification and subsequent identity requirement by the person accepting the credit card, no prosecution can be pursued and there is no need to notify the police department. Additional guidelines in accepting credit cards include:

- ✓ Do not accept credit cards that appear altered.
- ✓ Do not accept a credit card that has expired.
- ✓ Follow store policy on requesting authorization.
- ✓ Accept a credit card only from the person(s) whose name appears on the card. If the card holder's spouse wishes to use the card and his/her name is not imprinted on the card, call for authorization before accepting the card.
- ✓ Compare the photo and physical description on the DL or ID Card with the credit card presenter. If the above does not match, *do not accept the credit card.*

Credit card transactions later found to be fraudulent may be prosecuted by completing the following conditions and then calling the Rochester Police Department at 507-328-6800:

- ✓ Determining that the full name identification, including first/middle/last name and date of birth, has been obtained and written on the credit card slip; and
- ✓ Determining that the person accepting the credit card can identify the user; and
- ✓ That the incident has first been investigated by the credit card company (where applicable).

If in doubt, do not accept the credit card. A credit card is merely a piece of plastic. It is not the same as cash.

If you feel you have a forgery in-progress, or someone in your store is in possession of a stolen credit card or checks, immediately call the Rochester Police Department by dialing 911.

ALTERNATIVES TO PROSECUTION

Since criminal prosecution is not a collection process, alternative methods may be more desirable. These include:

- ✓ Turning the fraudulent check over to a private collection agency.
- ✓ Contacting the bank the fraudulent check was drawn on for assistance.
- ✓ Contacting a private attorney.
- ✓ Pursuing the matter civilly through Conciliation Court.

These methods are recommended if your primary concern is with recovering the monetary loss that you sustained. If you have any questions, please do not hesitate to contact the Rochester Police Department at 507-328-6800.

You, the merchant, must keep in mind a check or credit card is merely a piece of paper/plastic. It is not the same as cash. If in doubt, do not accept the check or credit card.

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
ASSOCIATION

MINNESOTA RETAIL MERCHANTS

NOTICE AND DEMAND FOR PAYMENT OF DISHONORED CHECK

ATTN: _____

RE: Check Dated: _____
Bank Drawn On: _____
Amount of Check: _____
Bearing Signature: _____

You are hereby notified that the above described check has been returned unpaid with the notation that payment was refused because of: _____

Please be aware that if payment in full is not received within five business days after mailing this notice, this matter will be referred to the proper authorities for criminal prosecution in accordance with Minnesota Statute §609.535. The following criminal penalties may apply:

- If the value of the dishonored check(s) is more than \$500, you may be sentenced to a maximum of five years imprisonment and/or a \$10,000 fine.
- If the value of the dishonored check(s) is between \$250-\$500, you may be sentenced to a maximum of not more than one year imprisonment and/or a \$3,000 fine.
- If the value of the dishonored check(s) is less than \$250, you may be sentenced to a maximum of 90 days imprisonment and/or a \$1,000 fine.

In addition to possible criminal penalties, the drawee will also be authorized to release certain account information to the holder of the check, law enforcement, and the prosecuting authority.

This notice of nonpayment or dishonor shall be sent by the payee or holder of the check to the maker by certified mail, return receipt requested to the address of record. Refusal by the maker of the check to accept certified mail notice shall not constitute a defense that notice was not received.

<p>PLEASE PAY IN FULL WITHIN FIVE BUSINESS DAYS OR THE COMPLAINANT _____ WILL NOTIFY THE PROPER AUTHORITIES FOR PROSECUTION.</p>

DATE: _____

ADDRESS: _____

