

Franklin County

Sheriff's Office



Robert W. Norris
Sheriff

BAD CHECK PACKET

Dear Merchant,

Effective July 12, 2010 the Franklin County Sheriff's Office has adopted a new policy regarding the handling of Bad Check cases.

The new policy requires the business manager/owner, as well as the clerk who accepted the check, to fill out and sign a sworn affidavit.

The business manager/owner will be required to fill out forms FCSOBC1 and FCSOBC2. The clerk who accepted the check in person will be required to fill out form FCSOBC3.

The forms are attached to this notice and are available on line at:
www.franklincountysheriff.net

Business managers/owners who wish to proceed with a criminal complaint of Passing Bad Checks must send a letter to the issuer by CERTIFIED MAIL, RETURN RECEIPT (to prove delivery). The letter must tell the issuer that they have 10 (ten) days to pay the check by cash or money order. You must have photocopies of this material in order to proceed with a criminal complaint.

The Franklin County Sheriff's Office WILL NOT accept checks under \$100.00 that are written on a non-sufficient funds account unless there is more than one check written to the same merchant by the same person within 90 days and the cumulative total is more than \$100.00. We will continue to accept checks that are written on a closed account as long as the check was written after the account was closed.

All documents must be submitted within 45 days of the date the check was written and passed.

Keep this in mind, any agreement to settle the check is civil. This eliminates any criminal action. Even if the person does not pay per the agreement, you have a civil action only. Do not call the Sheriff's Office to make a complaint after the settlement. The Sheriff's Office cannot act on a civil dispute. Settlements may include, but are not limited to:

1. Taking a new personal check in place of the bad check.
2. Taking some cash as partial payment.
3. An agreement to take money on a future date.
4. An agreement for return of the property.

If you have questions, please contact the Franklin County Sheriff's Office at 524-2121.

Sgt. J.R. Lynch
Countywide Alternative Policing Program

AFFIDAVIT OF CHECK FRAUD (FCSOBC1)

Name: _____

1. I am engaged in a business named _____ which is located at _____, VT. Telephone _____. My position is _____.

2. On _____ a check was passed to this business at the following location _____, in the amount of \$ _____. The check is described as:

Bank issuing check: _____

If bank is outside Vermont, **STOP**.

Account number: _____, Imprinted check number: _____

If check has no check number, **STOP**.

Name imprinted on check: _____

If no name imprinted, **STOP**.

Date check presented: _____, Date written on check: _____

If date on check does NOT match date presented, **STOP**.

Check payable to: _____

If payable other than to your business, **STOP**.

Signature on check: _____

Identification used: _____

If no identification, **STOP**.

3. The above-described check was presented to the drawee bank not more than 30 days after the date the check was issued. Payment was refused by the bank and the check was returned unpaid for the following reason as stamped on the face of the check:

_____ Account Closed _____ Insufficient Funds

4. I sent a notice to the issuer of the check by prepaid certified mail, return receipt requested, informing the issuer of the return of the check unpaid. In my letter to the issuer, I requested payment of the full amount of the check within ten (10) days of the receipt of the notice that the check had been returned. That letter was sent on _____. The receipt was returned to me by the Postal Service on which indicated that:

_____ The letter was received by _____ who signed for it on _____ 20_____.

_____ The letter was not received because: _____.

5. Since the check was issued to my business, the issuer has NOT paid the full amount of the check. I have not received any partial payment, nor have I made any agreement in discharge of the check or alternative arrangements for payment. The full amount of the check remains unpaid.

Subscribed and sworn to before me

This _____ day of _____, 20_____

Notary Public

Affiant

Date

CHECK FRAUD REPORT (FCSOBC2)

Name of Accused: _____

Case # _____

MESSAGE TO THE MERCHANT:

You have the choice of civil or criminal action. By making this report to the police, you are asking for CRIMINAL action and you must have the evidence to prove the case beyond a reasonable doubt. Once you file this criminal report, you cannot reach a civil settlement of the case.

The following are REQUIRED for criminal cases:

1. Vermont Bank (we cannot subpoena non-Vermont bank records).
2. Smaller checks can be handled in civil Small Claims Court without a lawyer.
3. The check MUST HAVE THE FOLLOWING:
 - a. Account Number, Imprinted Names, Imprinted Check Number
4. The check itself MUST SHOW:
 - a. The date written on the check is the date presented (no pre or post dated checks).
 - b. The signature on the check is the name imprinted.
 - c. The check is made payable to your business.
5. The person who took the check made a positive identification by use of license, signature, courtesy card, etc.
6. You have sent a written notice by prepaid certified mail, return receipt requested to the accused.
7. The check MUST have been PASSED IN PERSON in Franklin County.
8. This report MUST BE FILED WITH POLICE WITHIN 30 DAYS OF THE DATE THE CHECK WAS WRITTEN.

If you meet the above criteria and wish to begin a criminal investigation for a check issued in Franklin County, the following documents are required. Check each item that you are sending with this report:

- ____ 1. Affidavit of Check Fraud (FCSOBC1) filled out by YOU since you are the witness for these matters. Sign this ONLY in front of a Notary Public.
- ____ 2. Affidavit of Receipt of Bad Check (FCSOBC3) filled in by the person WHO ACTUALLY TOOK THE CHECK. That person can sign this ONLY in front of a Notary Public.
- ____ 3. Photocopy of the FRONT AND BACK of the check.
- ____ 4. Photocopy of the notice you sent to the accused and envelope with address and certified mail number and receipt from the Post Office.
- ____ 5. Photocopy of the return receipt showing delivery. Or photocopy of envelope showing non-delivery.
- ____ 6. Photocopy of any response from the accused or your notes and time of conversation about paying the check along with the substance or quotes of what the accused said.
- ____ 7. Photocopy of any sales slips, bills, cash register tapes, etc., which show the reason to pass the check.

AFFIDAVIT OF RECEIPT OF CHECK (FCSOBC3)

Name: _____

1. On _____ I was employed and working for _____
in the position of _____.

2. On that date, I received the following check:

Amount: \$ _____
Bank Issuing Check: _____
Account Number _____
Imprinted Check No. _____
Name Imprinted on Check _____
Date Written on Check _____
Check Payable To _____

3. This check was used by the person passing the check to pay for:

4. The person furnished the following identification when passing the check

5. The person said the following about the check (example: "hold on to this for a day", "this check is good", etc.)

6. I made the following notations on the check based upon the identification furnished by the person passing the check:

7. I have since seen the check, which I received and it had been returned by the bank unpaid.

Subscribed and sworn to before me
This _____ day of _____, 20____

Notary Public

Affiant

Date