

NSF "Hot Check" Information

Accepting a Check:

1. Check must be dated the same day it is accepted; post-dated checks cannot be prosecuted;
2. No out of State checks can be accepted for processing/prosecution;
3. **All checks must include driver's license number** or Texas I.D. number – D/O/B is helpful also – get your clerks in the habit of looking at the driver's license or I.D. as anyone can rattle off 8 numbers and your clerk would have no way of knowing if numbers are correct.
4. **No post office box numbers are acceptable** – physical addresses are required in order to prosecute the person writing the check
5. Written amounts and numbers **must correspond** as financial institutions will not honor checks with discrepancies.
6. **"Pay to the Order of"** must be filled in – we cannot process/prosecute checks if the merchant/individual's name is not provided on the check.
7. **No third-party checks are accepted for processing/prosecution.**
8. **All checks must be deposited by you within 30 days of receipt.**
9. The clerk that accepts the check must initial the check in the event he/she is required to come to court once the check has been processed through this Office.
10. **DO NOT** accept a partial payment against the NSF "hot check" as that changes the face value of the check.
11. Do not accept checks previously signed. Have them signed in your presence and compare with the individual's driver's license or other I.D.
12. **Avoid** a check for less than \$5.00 if at all possible.
13. The check **must be presented to your banking institution**, even if you know it will not be honored, and stamped by the bank as to the reason it will not be honored before you can present the check to us for processing/prosecution.
14. The Court can process **"closed account"** returned checks as NSF checks but not **"stop payment"** checks. **You must use the civil process in an attempt to collect on stop payment checks.**

Checks to Avoid:

Be careful of low series numbers on personal checks; about 35% of all uncollected "hot checks" are new account numbers between 101 and 150. Check the finish of the black magnetic computer numbers on the bottom of the check. Magnetic ink is very dull – **never shiny**. Check the first four magnetic numbers to the left of the account number. Each area of the state has its own bank routing number – learn yours. Look for at least one perforated edge on the check. All checks, except government or computer-produced checks, will be perforated. **Beware of photocopied checks.** The best sign of a photocopied check is shiny, tacky, uneven letters. Also beware of photocopied "color" on multi-colored checks from large corporations. **Beware** of a check not passed within this county!

Please be careful when accepting checks for large amounts, especially over \$500.00. If in doubt, call the financial institution to verify the check is good before accepting the check. Some people make a living from writing "hot checks", and unfortunately, not all are brought to justice mainly because they know when to leave this area for parts unknown.

When a Check is Returned:

1. **You must** send written notification to the check writer giving him/her 10 days to bring payment to you in cash. You may send this notification by first class mail, evidenced by an Affidavit of Service By Mail (form attached) or by certified mail, return receipt requested. Keep a copy of this letter for your records.
2. **If this notice is returned to you**, do not open it. Attach the unopened letter, the returned check, and **a copy of the returned check**, to the Affidavit for Probable Cause and Complaint furnished to you by this Court. Sign the Affidavit and Complaint before one of the Court Clerks **or** sign it before a Notary Public.
3. If the certified mail green card is returned to you signed by the check writer, wait 10 days to enable the check writer to pay you the amount owed to you or 16 days from date of letter if sent by regular mail. If the check writer does not pay you within the designated period, attach the green card, the returned check and **a copy of the returned check**, to the Affidavit for Probable Cause and Complaint furnished to you by this Court. Sign the Affidavit and Complaint before one of the Court Clerks **or** sign it before a Notary Public.
4. **IF THE CHECK WRITER PAYS RESTITUTION TO YOU**, please include on your receipt the date the check was written, the check number, the amount of the check and the date the check was paid. This information is especially important when the check writer has written more than one insufficient check to you. Instruct the check writer bring the receipt to the Court and we will work with them on the fines and court costs.

When Check Filed With Court:

1. The Court will enter all the check information from the Affidavit and Complaint.
2. A letter will be sent to the check writer by the Court giving that person 10 days to make restitution on the check and bring the Court a receipt from you showing the check and any return check fee charged by you has been satisfied.
3. If the person does make restitution, the Court will set up a payment plan with the check writer allowing that individual to make payments for the fine and Court costs.
4. If the person does not make restitution, the Court will issue a warrant(s) for that person's arrest, as well as enter that person into the OMNI system. The OMNI system flags the check writer's driver's license and that person cannot renew his/her license until restitution and Court costs have been paid.
5. The warrant will then be sent to the appropriate Constable's Office, and in turn, that Constable's Office will write another letter to the check writer advising that restitution must be made to the party filing the check. The check writer knows at that point there is a possibility he/she may be arrested at any time for writing the worthless check.

NOTE: A sample letter of notification is attached, as well as an Affidavit of Service By Mail, said Affidavit to be used in the event you do not send letter by Certified Mail, Return Receipt Requested.

Date: _____

Mr./Mrs./Ms. Doe
9999 Any Street
Town, TX 77777

Dear Mr./Mrs./Ms. Doe:

Your check# _____ dated _____, in the amount of \$ _____
for the purchase of _____ on the same date, has been returned by the
_____ Bank/Credit Union marked "insufficient funds" (or other
reason marked on the check by the financial institution).

You have ten (10) days from receipt of this letter to bring payment in cash, cashier's
check, or money order, in the amount of \$ _____, plus a return check
processing fee of \$ _____. Failure on your part to pay these amounts will result
in the filing of the necessary paperwork in the office of Judge Kathleen McCumber. At
that time, warrants will be issued for your arrest, and this case will be entered into the
TXDPS OMNI system, ultimately resulting in denial of renewal of your driver's license.

Sincerely,

Merchant Name
Address
Telephone Number

*I sincerely hope you find this information on "hot checks" helpful and beneficial to you
in recognizing and dealing with those people who write insufficient fund checks. My staff
and I are here to assist you in obtaining your restitution in a timely fashion, and rest
assured, the Constable's Office is diligently pursuing these individuals with one goal in
mind-getting your money to you as soon as possible.*

*Please feel free to contact this office if you have any questions or concerns. Our main
office number is (281) 316-8716.*

Thank you,

*Kathleen M. McCumber
Justice of the Peace
Pct. 8 Place1, Galveston County
174 Calder Rd, Room 111
League City, TX 77573*

09/09

AFFIDAVIT OF SERVICE BY FIRST CLASS MAIL

The State of Texas *
 * Know All Men By These Present:
County of Galveston *

BEFORE ME, the undersigned authority, this day personally appeared _____,
who swore on oath as follows:

“My name is _____. I am the owner/representative of _____ (business)
at _____ (address)
phone number _____.

On the ____ day of _____, 2____, I sent a notice in writing by **First Class Mail** with the following information contained therein:

“This is a demand for payment in full for a check or order not paid because of a lack of funds or insufficient funds. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption for committing an offense, and this matter may be referred for criminal prosecution.”

Sent to: _____ (name)
 _____ (address)
 _____ (City,State,Zip)

Please check one of the following regarding the address above:

- _____ Address is on the check;
- _____ Address is on the records of the Bank or other drawee;
- _____ Address is on vendor records of the person who issued/passed the check.

Affiant’s Signature

SWORN TO AND SUBSCRIBED before me, a Notary Public in and for the State of Texas, on this, the _____ day of _____, 2____.

Notary Public

Seal

AFFIDAVIT FOR PROBABLE CAUSE & COMPLAINT FOR ISSUANCE OF BAD CHECK
(PENAL CODE 32.41)

THE STATE OF TEXAS Case No. _____

VS

Kathleen McCumber

Justice of the Peace

Precinct 8, Place 1

Galveston County, Texas

Driver's License#: _____

I.D. #: _____

Date of Birth: _____

IN THE NAME AND AUTHORITY OF THE STATE OF TEXAS:

BEFORE ME, the undersigned authority, this Affiant for _____ who, after being duly sworn on oath deposes and says your Affiant has good reason to believe and does believe that on or about _____, A.D., and before making and filing of this Complaint, in the County of Galveston and the State of Texas, _____ did then and there UNLAWFULLY ISSUE A WORTHLESS CHECK IN THE AMOUNT OF \$ _____ AGAINST THE PEACE AND DIGNITY OF THE STATE.

AS PROBABLE CAUSE, Affiant states further upon his oath that:

On or about _____, A.D., in Galveston County, Texas Precinct 8 Place 1 the Defendant _____, issued and passed a check dated _____ payable to the order of _____ in the amount of \$ _____, drawn on _____, or the payment of money without having sufficient funds on deposit with the bank for the payment in full.

Affiant is the Owner/Manager of _____, Affiant was told by _____, who Affiant believes to be a credible and reliable employee, that on _____, in the course of employment, that employee was given a check for payment of money by Defendant. The Affiant was told by the employee that Defendant presented the employee with Texas D.L./I.D. Number _____, and the employee compared the photograph on the License with the Defendant and believed them to be one and the same person.

Affiant reviewed the records of _____, which included the check given by the Defendant. The records show that the check was presented for payment within thirty days after it was issued, and it was returned unpaid, marked either: 1) insufficient funds and the records show a written notice was sent to the Defendant by certified mail with return receipt requested; or 2) account closed. The records further show that as of the date of this Affidavit, the Defendant has not paid the check. Returned check fee: _____

Affiant's Signature

Store Name

Affiant's Printed Name

Affiant's Address (Line 1)

Affiant's Phone Number

Affiant's Address (Line 2)

SWORN AND SUBSCRIBED BEFORE ME ON _____

Justice Court Clerk or Notary

AFFIDAVIT FOR PROBABLE CAUSE & COMPLAINT FOR ISSUANCE OF BAD CHECK
(PENAL CODE 32.41)

THE STATE OF TEXAS

SAMPLE

VS

Kathleen McCumber

(Defendant's Name & Address)

Justice of the Peace

Precinct 8, Place 1

Galveston County, Texas

Driver's License#: _____

I.D. #: _____

Date of Birth: _____

IN THE NAME AND AUTHORITY OF THE STATE OF TEXAS:

BEFORE ME, the undersigned authority, this Affiant for (Store name/Owner) who, after being duly sworn on oath deposes and says your Affiant has good reason to believe and does believe that on or about (date of check), A.D., and before making and filing of this Complaint, in the County of Galveston and the State of Texas, (Defendant) did then and there UNLAWFULLY ISSUE A WORTHLESS CHECK IN THE AMOUNT OF \$ (check amt.) AGAINST THE PEACE AND DIGNITY OF THE STATE.

AS PROBABLE CAUSE, Affiant states further upon his oath that:

On or about (date of check), A.D., in Galveston County, Texas Precinct 8 Place 1 the Defendant (Defendant), issued and passed a check dated (date of check) payable to the order of (Store name/Owner) in the amount of \$ (check amt.), drawn on (Name of bank on check), or the payment of money without having sufficient funds on deposit with the bank for the payment in full.

Affiant is the Owner/Manager of (Store name/Owner), Affiant was told by (Name of person who took check), who Affiant believes to be a credible and reliable employee, that on (date of check), in the course of employment, that employee was given a check for payment of money by Defendant. The Affiant was told by the employee that Defendant presented the employee with Texas D.L./I.D. Number (I.D. or D.L. #), and the employee compared the photograph on the License with the Defendant and believed them to be one and the same person.

Affiant reviewed the records of (Store name/Owner), which included the check given by the Defendant. The records show that the check was presented for payment within thirty days after it was issued, and it was returned unpaid, marked either: 1) insufficient funds and the records show a written notice was sent to the Defendant by certified mail with return receipt requested; or 2) account closed. The records further show that as of the date of this Affidavit, the Defendant has not paid the check.

Affiant's Signature

Store Name

Affiant's Printed Name

Affiant's Address (Line 1)

Affiant's Phone Number

Affiant's Address (Line 2)

SWORN AND SUBSCRIBED BEFORE ME ON _____

Justice Court Clerk or Notary