



**CITY OF STARBUCK
POLICE DEPARTMENT
307 EAST 5TH STREET
STARBUCK, MN 56381
320-239-2525 Fax 320-239-4585**

DISHONORED CHECK INVESTIGATION DATA

The Starbuck Police Department has adopted the following guidelines and procedures to address dishonored checks (No Account, Account Closed, or Insufficient/Non-Sufficient Funds) for the investigation and successful prosecution of dishonored checks sales. These guidelines and procedures have been formulated with the participation of both the City and County Attorney's offices.

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

This information is being provided to you by the Starbuck Police Department. If you should have any questions, please do not hesitate to contact the Starbuck Police Department at 320-239-2525 or Pope County Dispatch at 320-239-2311.

STARBUCK POLICE DEPARTMENT

DISHONORED CHECK REPORTING PROCEDURES

- Call the Starbuck Police Department dispatch (320) 239-2525 to make a police report. You can request a Dishonored Check Report directly from the officer or you can obtain it from City of Starbuck (Police) web site. If you are a victim and the suspect is in your business please call 911 or (320) 239-2311 to have a police officer dispatched to the scene.
- Complete the enclosed Starbuck Police Department “Dishonored Check Report” form.
- Complete the top portion of the “Notice and Demand for Payment of Dishonored Check” then make a copy of the document. Mail the original document to the account holder at the address listed on the check. The copy will be used as an affidavit of service by mail by completing the bottom portion and signing it before a notary public. If an additional address is known, send a second Notice and Demand for Payment of Dishonored Check to that address. Note that a notice must be sent to the address listed on the check whether the account holder still resides there or not. A sample “Notice and Demand for Payment” form has been attached to the end of this packet. (see page 4)
- The “Notice and Demand for Payment of Dishonored Check” must, by law, be sent by **certified mail, return receipt requested**. Either the “domestic return receipt” (green card) will be returned to the sender by the post office with the signature of the person receiving the certified mail **or** if the certified mail is non-deliverable, the entire envelope will be returned to sender.
- Once the sender is in receipt of the return receipt (green card) or after the undelivered notice is returned to sender, the matter may be presented for prosecution by following the instructions contained in the Starbuck Police Department “Dishonored Check Report” form.

STARBUCK POLICE DEPARTMENT DISHONORED CHECK REPORT

Please print all information in INK!

<input type="checkbox"/> FORGED <input type="checkbox"/> ACCOUNT CLOSED <input type="checkbox"/> NON-SUFFICIENT FUNDS	<input type="checkbox"/> NO ACCOUNT <input type="checkbox"/> STOP PAYMENT	DATE REPORTED:	CASE FILE #
CHECK PAYABLE TO:			WORK PHONE:
ADDRESS:		CITY/STATE/ZIP:	
PERSON MAKING REPORT:		TITLE:	
PERSON WHOM ACCEPTED CHECK (FULL NAME):			DATE OF BIRTH:
HOME ADDRESS:		CITY/STATE/ZIP:	
HOME PHONE:	WORK PHONE:	CELL/PAGER PHONE: (CIRCLE)	

SURVEILLANCE VIDEO: <input type="checkbox"/> YES <input type="checkbox"/> NO			
CHECK PASSER (FULL NAME)			DATE OF BIRTH:
ADDRESS OF ACCOUNT HOLDER:		CITY/STATE/ZIP:	
MINNESOTA DL# OR ID#:		PHONE#:	
BANK CHECK DRAWN ON: (ADDRESS, PHONE#)		ACCOUNT#:	
DATE OF CHECK:	CHECK #:	AMOUNT OF CHECK:	BANK SERVICE CHARGE:
<p>ANY ADDITIONAL 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. ATTACH COPY OF CASH REGISTER RECEIPT.</p>			
<p>INCLUDE THE FOLLOWING WITH THIS FORM WHEN REPORTING:</p> <ul style="list-style-type: none"> • 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 BANK COPY OF BOTH THE FRONT AND BACK OF CHECK. • SURVEILLANCE VIDEO (IF AVAILABLE) 			
<p>WHEN ALL ABOVE IS COMPLETED, SEND DIRECTLY TO:</p> <p style="text-align: center;"> STARBUCK POLICE DEPARTMENT 307 E 5th Street PO Box 606 STARBUCK, MN 56381 PHONE: 320-239-2525 </p>			
SIGNATURE OF REPORTING PERSON:			DATE:

NOTICE AND DEMAND FOR PAYMENT OF DISHONORED CHECK

TO: _____

DATE: _____

A CHECK DATED _____ AND BEARING YOUR NAME AS THE ISSUER THEREOF, IS PRESENTLY BEING HELD BY ME, AFTER HAVING BEEN DISHONORED AND RETURNED BY _____ THE BANK UPON WHICH IS WAS DRAWN.

THIS CHECK WAS ISSUED TO _____

IN THE SUM OF _____ DOLLARS, (\$ _____) .

YOU ARE HEARBY NOTIFIED THAT PURSUANT TO **STATE LAW, SECTION 609. 535 subd. 3**, ANY PERSON WHO ISSUED A CHECK, WITHOUT HAVING SUFFICIENT FUNDS IN, OR CREDIT IN, SUCH BANK OR OTHER DEPOSITORY FOR THE PAYMENT OF SUCH CHECK, DRAFT OR ORDER IN FULL UPON ITS PRESENTATION SHALL BE GUILTY OF A MISDEMEANOR AND MAY BE SENTENCED TO NOT MORE THAN 90 DAYS OR TO A PAYMENT OF NOT MORE THAN \$700.00, OR BOTH, IF THE VALUE OF THE DISHONORED CHECK IS NOT MORE THAN \$250.00.

IF THE VALUE OF THE DISHONORED CHECK IS MORE THAN \$250.00, A PERSON MAY BE SENTENCED TO IMPRISONMENT FOR NOT MORE THAN ONE YEAR OR TO A PAYMENT OF A FINE NOT MORE THAN \$3000.00, OR BOTH.

THESE SUBDIVISIONS SHALL NOT APPLY HOWEVER IF, WITHIN FIVE (5) BUSINESS DAYS AFTER THE MAILING OF THE **NOTICE OF DISHONORED CHECK**, HE SHALL DEPOSIT WITH THE BANK OR OTHER DEPOSITORY, OR PAY, TENDER TO THE PARTY IN POSSESSION OF SUCH CHECK, DRAFT, OR ORDER, SUFFICIENT MONEY TO CONSTITUTE PAYMENT IN FULL.

IF SUCH CHECK, DRAFT OR ORDER IS NOT PAID IN FULL WITHIN THE FIVE (5) BUSINESS DAYS AFTER THE MAILING OF THIS NOTICE, THE BANK UPON WHICH SAID CHECK, DRAFT OR ORDER IS MADE, WILL BE AUTHORIZED TO RELEASE INFORMATION RELATING TO THE ACCOUNT, TO THE PAYEE OR HOLDER OF THE CHECK AND MAY RELEASE THIS INFORMATION TO LAW ENFORCEMENT OR PROSECUTING AUTHORITIES.

YOU ARE FURTHER NOTIFIED THAT PURSUANT TO **STATE LAW SECTION 332.50 subd. 3** YOU ARE LIABLE TO THE HOLDER FOR THE AMOUNT OF THE CHECK, PLUS A CIVIL PENALTY OF UP TO \$1000.00, INTEREST AT THE RATE PAYABLE IN JUDGEMENTS, PURSUANT TO SECTION **549.09** ON THE FACE AMOUNT OF THE CHECK FROM THE DATE OF DISHONOR, AND REASONABLE ATTORNEY FEES IF THE AMOUNT OF THE CHECK IS OVER \$1,250.00.

THIS MATTER WILL BE TAKEN UP WITH THE PROPER AUTHORITIES ON THE _____ DAY OF _____, IF PAYMENT IS NOT RECEIVED BY ME ON OR PRIOR TO THE ABOVE DATE.

SINCERELY,

NAME

ADDRESS

CITY, STATE, ZIP CODE

CATEGORIES OF DISHONORED CHECKS

If a check is bad, it will be returned (dishonored) by the bank with a specific category or classification stamped on it.

The common categories are as follows:

- *Account 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 dishonored check can be the basis of a criminal prosecution only if the particular facts constitute a violation of criminal law and if the prosecutor is able to prove all the elements of the offense. It is the position of the Starbuck Police Department to accept checks only for the purpose of prosecution. Prosecution *does not guarantee* restitution, although restitution is ordered by the courts in many cases. By making a report with the Starbuck Police Department you are agreeing to aid in prosecution and any agreements/partial payments made with the suspect after an investigation has commenced will be considered a civil agreement/line of credit, and therefore, will stop any criminal investigation or prosecution.

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

CHECKS TO AVOID

The following are checks we **recommend you not accept.**

- *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.
- *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 not check number and/or account holder information.
- *Checks which are partial payment.* This establishes credit, which is a civil matter.
- *Checks taken for previously returned checks.* Never accept a check as payment for a check that has been returned by the bank; we recommend cash or money orders. If the second check is also dishonored, neither check can be prosecuted as you have established credit, which is a civil matter.

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 investigation:**

- “Stop Payment” checks, Out of State checks, bank counter checks, checks 6 months or older.
- Checks issued for “past consideration”, (a debt or merchandise/services previously received).
- Checks for which the “Notice and Demand for Payment of Dishonored Check” have not been sent to the maker.
- Checks for which a State of Minnesota photo driver’s license/identification card was not used as means of identification.

CHECK PROCESSING REQUIREMENTS

The following procedure is suggested by the Starbuck 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 may be no prosecution if the check is later determined to be "dishonored".
- 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*. If the DL or ID Card appears to have been altered or tampered with, *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 Starbuck 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.

“NON-SUFFICIENT” OR “ACCOUNT CLOSED” CHECKS

In preparing a “dishonored” check for prosecution, the following items need to be completed:

- You have determined the check is not included among the “Checks to Avoid”. (SEE PAGE 6)
- You have determined that all “Check Processing Requirements” have been complied with. (SEE PAGE 7)
- The check has been presented to the bank for payment, even if the check is known to be without sufficient funds or account closed.
- A “Notice and Demand for Payment of Dishonored Check” has been completed, with the original sent to the account holder by certified mail, return receipt; copy retained by yourself, and has not been complied with.

The “Notice and Demand for Payment of Dishonored Check” is a legal form, obtainable at a local office supply store or bank. A sample form is attached (page 4) to this packet. You may use this form. Complete the notice and send it via Certified Mail, return receipt requested to the account holder at the address listed on the check. If you have knowledge that the account holder has moved, send another notice to the new address. One notice must be sent to the address listed on the check.

- A Starbuck Police Department “Dishonored Check Report” form has been filled out in its entirety. This form is available from the police department or on the police dept’s web site, or you may reproduce the sample included within this informational booklet.
- When the Notice for Demand is returned by the US Post Office (certified mail receipt), the matter may be presented for prosecution.

For “Non-Sufficient Fund” checks, and “No/or Account Closed” checks, complete the following procedures.

- A copy of the “Notice and Demand for Payment of Dishonored Check”.
- The signed Certified Mail Receipt returned to you, or the green receipt card attached to the “Notice and Demand for Payment of Dishonored Check” letter if the letter was not claimed.
- The original or bank copy of the check.
- The completed Starbuck Police Department “Dishonored Check Report” form.
- The name of the person and title (manager, credit manager, etc.) who will be the “complainant”. (the person to sign the formal complaint and testify in court if necessary).
- Please designate someone from your business. Be sure to print or type all the information as this name will be incorporated into the Formal Complaint.

Once completed, send all materials by mail to:

**Starbuck Police Department
307 E 5th Street
PO Box 606
Starbuck, MN 56381**

After receipt of the above materials, a Formal Complaint will be prepared for signature. At the time the complaint is drafted and signed, the account holder becomes the defendant in a criminal proceeding. The Court procedure following presentation of a Formal Complaint is as follows:

Once the complaint has been received by the Court, the Court will issue a court date on the back of the complaint and send it to the defendant at his/her last known address. If the defendant fails to appear, the Court will issue a warrant for the defendant's arrest.

Your responsibility has been completed at the time a complaint has been signed at the Attorney's office - unless the defendant should enter a "not guilty" plea to the charge. The defendant could then request a Court or Jury Trial. If this should happen, you and the person who accepted the check will be notified to testify in Court as to your knowledge of the matter. The Court usually orders restitution for the dishonored check as part of the defendant's sentence. Upon receipt of the court ordered restitution the court then submits the money to the merchant. The City or County Attorney's Office and the Police Department do not get involved in the collection process.

In the event that the defendant attempts to pay you before going to court, it is important to know that the defendant still must appear in Court. No acceptance of cash can be made once the materials for a dishonored check have been accepted by the City or County Attorneys Office.

“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 from.
- You have obtained from the account holder an “Affidavit of Forgery”.
- 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 Starbuck Police Department, through dispatch at 320-239-2311, 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 with suspect on site, immediately call the Starbuck 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 check writer intended to defraud, such action may be criminal.

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

- Acknowledgment 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 your reporting a theft matter to the Police Department.

Upon completing the above, the matter may be submitted for prosecution consideration following the procedure as outlined in submitting “No/or Account Closed” checks.

ALTERNATIVES TO PROSECUTION

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

- Turning the dishonored check over to a private collection agency.
- Contacting the bank the dishonored 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 Starbuck Police Department at 320-239-2525.

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