

## **PROCEDURES TO PROSECUTE A WORTHLESS CHECK CASE**

When you receive a returned check marked INSUFFICIENT FUNDS, ACCOUNT CLOSED or REFER TO MAKER, first contact the person who wrote the check by phone or letter. If there is no response, you may then proceed with processing the check through the Leavenworth County Attorney's Office in the following manner:

1. Notify the person that their check was returned to you unpaid by sending them a letter giving those SEVEN (7) days to reimburse you in full, plus your usual posted service charge.
2. The letter must be mailed CERTIFIED, RESTRICTED DELIVERY, RETURN RECEIPT REQUESTED SHOWING TO WHOM, THE DATE, and AND ADDRESS OF DELIVERY. Mail it to the address on the check.
3. If the letter is returned to you undelivered, or if you have received the green card, the Certified Mail Receipt, and the seven days have passed, you may then immediately bring the ORIGINAL CHECK to our office.
4. Whenever you bring a check in, we must also have the AFFIDAVIT completely filled out with all the questions being answered. Have it NOTARIZED or we will do it for you.
5. Bring the GREEN CARD or the UNDELIVERED LETTER (with the green card attached) and a copy of the letter you sent

In order for us to be able to issue an ARREST WARRANT, we must have proper identification. ALWAYS GET THEIR DRIVERS LICENSE NUMBER. This is the most positive means of identification. Any and all information or identification which you can obtain will be beneficial to us. If the County Attorney's Office can be of any assistance in helping you to reduce your losses due to the worthless check writers, or if you have any questions, please call us.

Any restitution collected for you by this office will be forwarded directly to you.

The LEAVENWORTH COUNTY DIVERSION OFFICE is located at the LEAVENWORTH JUSTICE CENTER, COUNTY ATTORNEY'S OFFICE, 601 S. 3<sup>RD</sup> STREET, SUITE 3065, LEAVENWORTH, KS 66048. The person in charge of the Worthless Check Program is Dianna Miller. Our office hours are from 8:00 a.m. until 5:00 p.m. Our telephone number is: (913) 684-0771.

## A message to Leavenworth County merchants

- **From the Leavenworth County Attorney's Office.**

Hopefully, the following information will be beneficial in helping to reduce your financial loss because of returned checks. Our goal is to reduce the number of worthless checks being written, and to collect restitution due you.

- **Always get proper identification. A valid Drivers License or a valid Kansas ID number are required for prosecution. There are no exceptions. This is necessary for proper identification purposes.**
- If your employees have any doubt about a person, try to obtain any information and identification which they have available to correctly identify them.
- Be sure you have the correct address and phone number. Ask them if the information is correct. If it is not, write the new information on the check.
- Be sure the check is properly written. It must be dated, have a payee, the two (2) amounts must agree, signed by the drawer, and be legibly written.
- If the check issuer cannot be positively identified, we will be unable to prosecute and obtain a conviction for the crime.
- Military ID and credit cards do not provide sufficient ID for prosecution.
- When you receive a returned item, it is important to process them as soon as possible. The longer you wait, the less collectible your returned item becomes.
- Checks that are for pre-existing debt, loans, payroll, partial payments and contractual agreements cannot be processed through our office. These are considered civil cases.
- If you agree to accept and hold a post dated check, we cannot accept this item for prosecution.
- Do not accept "second" or "third" party checks.
- Forged checks must be reported to the Police or Sheriff's Department.
- After you have placed a check with the County Attorney's office, do not accept any payments from the offender. Please direct any communication from them to our office.

Always remember, if you have serious doubts about the legitimacy of a check, or the maker of the check, simply refuse to accept the check.

If you need additional forms or signs, they are available in our office. Please call us if we can be of further assistance to you. The Check Diversion direct line is 913-684-0771.

**CUSTOMER WORTHLESS CHECK NOTICE**

DATE: \_\_\_\_\_

Dear Customer:

We are holding the check described below, which has been returned to us unpaid.

NAME: \_\_\_\_\_ CHECK DATED: \_\_\_\_\_

PAYABLE TO: \_\_\_\_\_

BANK DRAWN ON: \_\_\_\_\_

REASON RETURNED:    INSUFFICIENT FUNDS ( )    ACCOUNT CLOSED ( )

OTHER REASON: \_\_\_\_\_

CHECK AMOUNT: \$ \_\_\_\_\_ PLUS SERVICE CHARGE \$ \_\_\_\_\_

**TOTAL DUE:** \$ \_\_\_\_\_

If payment in full is not made to our store within seven days from the date of this letter notice, we will turn this check over to the County Attorney's office in order that CRIMINAL PROSECUTION may proceed against you.

Sincerely Yours,

**SPECIAL NOTICE FROM THE LEAVENWORTH COUNTY ATTORNEY:**

Writing worthless checks is a criminal offense!! Offenders will face criminal prosecution if full restitution is not paid to the victim. It is my intention to substantially decrease the number of worthless checks being written. **UPON CONVICTION, PUNISHMENT MAY BE A SENTENCE OF IMPRISONMENT OF ONE TO FIVE YEARS IN THE STATE PENITENTIARY. A FINE NOT TO EXCEED \$5000.00, OR BOTH.**

**TODD THOMPSON  
LEAVENWORTH COUNTY ATTORNEY**

**AFFIDAVIT**

State of Kansas            )  
  ) SS:  
County of Leavenworth )

I, \_\_\_\_\_, hereinafter referred to as “the Affiant,” being duly sworn upon my oath, state that the following answers and information are true and correct to the best of my knowledge and belief:

The information below is in regard to check number(s) and amount(s):

\_\_\_\_\_.

The check(s) was received by \_\_\_\_\_, hereinafter referred to as “the Payee,” and was not honored by the financial institution on which the check(s) was drawn. Affiant is:

- the Payee
- a duly authorized [  employee  agent  owner] of the Payee.

**Section A: Details Concerning the Check**

1. The name of the maker of the check was \_\_\_\_\_, hereinafter referred to as “the Maker.”
2. The Maker  was  was not the same person who gave the Payee the check(s).
3. The date(s) written on the check(s) was:  
\_\_\_\_\_.
4. The check was actually given to the Payee on:  
 the same date written on the check.  
 on \_\_\_\_\_.
5. The Maker  did not  did ask the Payee to hold the check(s).
6. The check(s) was made payable to:  
 the Payee  
 Other: \_\_\_\_\_
7. In return for the check(s), the Maker received the following (briefly describe the goods and/or services received by the Maker):  
\_\_\_\_\_  
\_\_\_\_\_.
8. When the check(s) was returned by the Maker’s financial institution, the reason given for the return was:  
 Insufficient funds  Closed Account  No account found  Other: \_\_\_\_\_.
9. The check(s)  was  was not given for a pre-existing debt.

**Section B: Identification of the Maker**

10. The name of the person who physically accepted the check(s) was: \_\_\_\_\_  
\_\_\_\_\_  
 This person(s) observed the Maker sign the check(s).  
 This person(s) did not observe the Maker sign the check(s).  
 It is unknown to the Affiant whether this person(s) observed the Maker sign the check(s).
11. The person named in No. 10 above who accepted the check(s) can identify the Maker of the check(s).

- Yes  No. If Yes, the identification is based on (check all that apply):
- personal knowledge of, or acquaintance with, the Maker.
  - security video/photo's.
  - on the basis of the identification presented, which consisted of:
    - Driver's License number: \_\_\_\_\_ issued by the State of \_\_\_\_\_.
    - Photo ID Card number: \_\_\_\_\_ issued by \_\_\_\_\_.

12. The physical description of the Maker is as follows:

Sex:  Male  Female Race: \_\_\_\_\_

Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Date of Birth: \_\_\_\_\_.

13. There are other persons with knowledge of this check who could provide additional information.

Yes  No. If Yes, the name(s) of the other person(s) is/are: \_\_\_\_\_

### Section C: Notice and Demand for Payment

14. When the check was returned, the Payee gave the Maker notice that the check(s) was not honored by the Maker's financial institution and the Payee made demand for payment.  Yes  No If Yes, said notice was by:

oral communication with the Maker. The oral communication was accomplished on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The name of the person who spoke to the Maker was:

Affiant  Other: \_\_\_\_\_.

The oral communication with the Maker took place  in person  on the phone.

written notice issued by **certified restricted delivery mail** to the printed address as it appears on the check. Said written notice was mailed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the following individual:  Affiant  Other: \_\_\_\_\_. As a result of issuing the written notice:

the notice was returned to the Payee undelivered.

a signed return receipt was received on \_\_\_\_\_ and was signed by:

the Maker  Other: \_\_\_\_\_.

In addition to the address as it appears on the check, notice was also mailed to the Maker at the following address(es): \_\_\_\_\_

15. At least seven days have passed since notice and demand for payment was sent to the Maker and payment:

has not been received.

has not been received in full, but partial payment has been received in the amount of \$ \_\_\_\_\_ which was received on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Affiant's Signature

\_\_\_\_\_  
Payee's Address

\_\_\_\_\_  
Payee's Telephone

Subscribed to and sworn before me this \_\_\_ day of \_\_\_\_\_, 20\_\_, in Leavenworth County,

Kansas.

\_\_\_\_\_  
Notary