

WILLIAM "BILL" EDDINS
STATE ATTORNEY



OFFICE OF

STATE ATTORNEY
FIRST JUDICIAL CIRCUIT OF FLORIDA

CHECK DIVISION
2257 N. Palafox St.
Pensacola, FL 32501
Telephone: (850) 595-4091
Fax: (850) 595-4619
Website: <http://sao1.co.escambia.fl.us>

VICTIMS/MERCHANTS INFORMATION PACKET

The purpose of this packet is to inform victims/merchants of the process of worthless checks once they been filed with the Check Division. It also serves as a source of information for potential questions regarding the Worthless Checks Diversion Program, warrants, final notices, and contains samples of various forms victims are required to use.

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WORTHLESS CHECKS DIVERSION PROGRAM VICTIM'S INFO PACKET

The Worthless Checks Diversion Program (WCDP) originated in March 1990. Its purpose is to demand restitution and service fees for victims of worthless checks, as well as to effectively divert worthless check cases from inundated circuit court dockets. More than 17,000 checks have been received annually at this office. The information provided in this packet is to assist victims with understanding the procedures once a sworn complaint is submitted. Each check filed requires completion of a separate sworn complaint form. An Assistant State Attorney then reviews each check case file to ensure that its acceptance is in accordance with Florida Statutes 832.05.

Sworn Complaint Correction Cover Sheet

WCDP staff may contact victims to correct sworn complaints, provide additional information, or to clarify information on sworn complaints. A cover sheet that is attached to the front of the sworn complaint indicates the specific correction or info needed. ALL REQUESTS should be done expeditiously. Otherwise, delayed responses to requests causes delays in processing sworn complaints, the service of warrants in a timely manner, and delays restitution to victims.

Final Notice (FN) and Capias (Warrant)

Only **one Final Notice** per check is mailed from the WCDP to notify the check writer that a criminal charge and warrant has been generated, pending payment of full restitution to the victim. Normally, the Final Notice is sent to the check writer within ten (10) business days from receipt of the sworn check complaint. Each Final Notice states the amount of restitution and service fees that must be paid to the victim or designee, by a specified date (usually within 14 calendar days). It further states that failure to do so can result in the service of a warrant. Warrants are routinely activated for service eight (8) to ten (10) weeks from the initial filing date, if a check writer fails to comply to the Final Notice. It is strongly suggested to wait until after this period to check the status of sworn complaints filed, if restitution has not been received. Currently, the WCDP has one deputy sheriff on site, assigned to primarily serve worthless check warrants. Most warrants are usually served in the order that sworn complaints are filed, with some exceptions. However, it is difficult to determine the exact date of service for any warrant.

Worthless Check Diversion Agreement (WCDA)

A Worthless Check Diversion Agreement (WCDA) is a check writer's signed agreement to pay restitution to the victim, and waiver fees to the WCDP by an agreed upon date. An Escambia County Check Diversion case worker interviews the check writer and has him/her complete an income questionnaire before the WCDA is signed. Failed Agreements require a mandatory arrest and arraignment court appearance. The presiding arraignment judge may adjudicate and sentence the check writer during the arraignment hearing, or may refer him/her back to the WCDP.

Restitution and Receipts

Victims should only accept cash or a cashier's check for restitution. ALL RECEIPTS given to the check writer MUST INCLUDE the date restitution was paid, the check number, check amount, service fee, and the date the sworn complaint was stamped received by this office. Receipts from individuals or non-businesses MUST INCLUDE all of the above, with a signature and phone number so that a case worker can verify the receipt.

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ATTENTION: VICTIM/MERCHANT

“15 DAYS” NOTICE TO CHECK WRITER

EFFECTIVE JULY 1, 2004, IN ACCORDANCE WITH ARTICLE V FROM THE FLORIDA STATE LEGISLATURE, CERTIFIED NOTICES ARE NO LONGER REQUIRED AS NOTICE FOR CHECK WRITERS IN ORDER TO FILE WORTHLESS CHECK SWORN COMPLAINTS. HOWEVER, THE LAW REQUIRES THAT A NOTICE MUST BE SENT BY REGULAR MAIL TO THE CHECK WRITER, AND 15 DAYS ALLOWED FOR RESTITUTION TO BE MADE, BEFORE A CRIMINAL COMPLAINT MAY BE FILED. FURTHER, IT REQUIRES THAT YOU ATTEST UNDER OATH THAT NOTICE WAS SENT IN ACCORDANCE WITH ARTICLE V. ANY RETURNED NOTICES WOULD BE HELPFUL TO THIS OFFICE IN LOCATING CHECK WRITERS WHEN THE POST OFFICE HAS PROVIDED NEW OR FORWARDING ADDRESSES. THIS OFFICE ENCOURAGES VICTIMS/MERCHANTS TO CONTINUE TO ATTACH RETURNED NOTICES TO SWORN COMPLAINTS FOR THIS REASON.

AFFIDAVIT OF MAIL SERVICE

Florida Statutes 832.05 also requires that an Affidavit of Mail Service accompany each sworn complaint filed. The only exception is if a check has been returned for “account closed.”

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**RETURNED CHECKS
UNACCEPTABLE TO FILE IN ESCAMBIA COUNTY**

Returned checks cannot be filed in Escambia County if:

1. A notice was not sent to check writer allowing 15 days for restitution to be made. Notices are not required for checks stamped "CLOSED ACCOUNT."
2. An Affidavit of Mail Service is not submitted with checks stamped with "INSUFFICIENT FUNDS."
3. The "original" or "legal" copy of the check is not furnished from the bank.
4. A duplicated copy of the original check has not been certified by a bank official with a notarized statement on the bank's stationery, as to why the original check is not available.
5. The check is not signed.
6. The check does not have a bank's **stamped return reason**, or **bank's letter with return reason**.
7. The check was signed by a juvenile (Recourse: File at Juvenile Justice Center).
8. The check was written or passed two (2) or more years previously from date of intent to file check.
9. The check was drawn on a "credit card" account, or is a "draft."
10. The check amount is for \$5.00 or less.
11. The check was asked to be held, "postdated," or deposit was asked to be delayed.
12. The check was issued to pay an illegal debt.
13. The check does not have "Pay to Order Of" stamped or filled out at the time it was **first issued**.
14. The check was not received (by hand) in Escambia County, or mailed to or from Escambia County.
15. The check was given as "collateral," and the receiver of the check had reason to believe the check was "not good" at the time it was accepted.
16. A separate sworn complaint form is not completed for each signature on the check.
17. The sworn complaint form was signed by a representative from a collection agency who did not originally receive/accept the check.
18. **The check was returned for:** STOP PAYMENT, UNAUTHORIZED SIGNATURE, IRREGULAR SIGNATURE, SIGNATURE DOES NOT AGREE, SIGNATURE NOT ON FILE, UNAVAILABLE FUNDS, UNCOLLECTED FUNDS, REFER TO MAKER, BALANCE HELD, HOLD VIOLATIONS, ACCOUNT FROZEN, ENDORSEMENT CANCELLED, FORGERY, OR FRAUD.

Victim's Sample of Letter to Check Writer

You are hereby notified that a check numbered 4444 in the face amount of \$100.00, issued by you on June 1, 1999, drawn on Jane Doe Bank, and made payable to Mr. John Jones, has been dishonored. Pursuant to Florida law, you have 15 days from the post marked date of mailing this notice to: tender payment of the full amount of such check plus a service charge of \$25.00 if the face value does not exceed \$50.00; \$30.00 if the face value exceeds \$50.00 but does not exceed \$300.00; \$40.00 if the face value exceeds \$300.00; or an amount of up to 5% of the face amount of the check, whichever is greater, the total amount being \$_____.

Unless this amount is paid in full within the time specified above, the holder of such check may turn the dishonored check and all other available information relating to this incident to the Office of State Attorney for criminal prosecution. You may be additionally liable in a civil action for triple the amount of the check, but in no case less than \$50.00, together with the amount of the check, a service charge, court costs, reasonable attorney fees, and incurred bank fees, as provided in c. 68.065.

Checks Without Stamped Return Reason

January 1, 2006

Jane Doe Bank of Florida
2002 West Peace Boulevard
Pleasantville, FL 33333

RE: Checks Without Stamped Return Reason

To Whom It May Concern:

See verbiage requirement below for bank's letter to contain regarding returned checks that do not have a "stamped" return reason.

VICTIM/MERCHANT

REF: CHECKS WITHOUT A STAMPED RETURN REASON

The following information is necessary if a check has not been stamped by a bank officer with the return reason. The bank officer must indicate on bank stationery the date and return reason, and the following: the account number and name, date of check, check number and the check amount. Also, the officer should date and sign his or her name to the statement.

Please call the State Attorney's Office Check Division at 595-4091 if there are any questions regarding what is needed.

JANE DOE BANK
1945 WEST PERDUE STREET
PENSACOLA, FL 32505
TELEPHONE: (850) 999-9999
FAX (850) 888-8888

**SAMPLE LETTER FROM BANK
"CERTIFYING" COPY OF ORIGINAL CHECK**

Important: The verbiage of the letter must state why the original is not available.

February 20, 2006

RE: CERTIFIED COPY OF CHECK ATTACHED

To Whom It May Concern:

Check # _____ submitted to your division in the amount of \$ _____, dated _____, made payable to _____, signed by _____, drawn on Jane Doe Bank, account # _____, was _____ (state what happened to the original check). Please accept the attached copy as a true and correct copy of the original item.

If you have any further questions regarding the above check, please contact me.

Sincerely,

Jade Richards, Branch Manager

Before me personally appeared and personally known to me to be the person signing the document.

_____, Notary Public, State of Florida, Expires _____


Date Notarized: _____ Notary Seal: _____

SAMPLE OF A "LEGAL COPY" OF A CHECK

061000146
08/05/2005
6211752114

This is a LEGAL COPY of your check. You can use it the same way you would use the original check.

0611006067 08/04/2005 9904029260

Jane Doe 221 Doe Lane Doe Park, FL 32514		535 63-215/631
		Date <u>7/20/05</u>
Pay to the Order of	<u>Jane Doe</u>	\$ <u>750⁰⁰</u>
	<u>Seven Hundred Fifty dollars & 00/100</u>	Dollars 
SUNTRUST SunTrust Bank ACH RT 061000104		
For	<u>Rent</u>	NSF NSF NSF NSF
⑆0631021⑆		

410631021521

0000075000

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**Instructions to Complete
Sworn Complaint Forms for Worthless Checks**

Complete an original complaint form for each check. A separate complaint form is required for each signature, if the check has more than one signature. Make copies of completed complaint forms, and put in alphabetical order prior to submitting them. They will be stamped with a "RECEIVED DATE" which should be referred to when making inquiries about checks submitted. YOUR COOPERATION by calling ahead to make an appointment to file 25 or more checks is helpful, due to the large volume of checks received daily. It allows this division time to review and process sworn complaints more efficiently, and lessens the need for victims/merchants to return to make corrections. Sworn complaints **cannot be processed until corrections have been made.**

Attach the original or legal copy of the check to the top left corner of the original sworn complaint with a paper-clip (staples rip the check). Also, attach an Affidavit of Mail Service to the back of the sworn complaint, if the notice is sent by first class mail. Sending a notice via certified mail is no longer required by Florida Statutes. However, a victim may still elect to do so. Notices and/or signed receipt cards returned by the post office should be paper-clipped to the back of the sworn complaint.

Provide the check writer's name as it is signed on the check, even when signed with initials.

Provide the date the check was received personally or by mail.

Provide the current or last known address for the check writer, including the street, city, state and zip code.

Provide as much I.D. info as possible, e.g., dob, driver's license number, race, which will help in the service of warrants. Because of duplicated names, OFFICERS WILL NOT SERVE WARRANTS WITHOUT SOME TYPE OF I.D. to ensure that they are arresting the right person.

Provide the check writer's employer's business name, complete address, and phone number.

Provide the full name, business address, and business phone number of the person who accepted the check. IT IS NOT NECESSARY TO PROVIDE A HOME ADDRESS OR PHONE NUMBER UNLESS THE CHECK IS ACCEPTED BY AN INDIVIDUAL RATHER THAN AT A BUSINESS.

Provide the CITY, COUNTY AND STATE (in same order) where the check was passed/accepted.

Provide the complete address where the check was accepted.

Provide the correct check number and the correct check amount - the legal amount that is written below "Pay to Order of." Counter checks should be indicated as CC or as Counter Check.

Provide what the "check was accepted for," and the "return reason" indicated by the bank.

All sworn complaint forms and affidavits of mail service sent by mail must be notarized prior to mailing.

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VICTIM: _____ LOG/CLERK# _____

DATE: _____ RECEIVED DATE: _____

CHECK WRITER: _____ CORR/MAILED: _____

Reviewed by: _____

SWORN COMPLAINT CORRECTION COVER SHEET

The attached Sworn Complaint cannot be processed any further until the correction/information indicated below has been provided. Delays in returning Sworn Complaints and paperwork causes delays in processing Sworn Complaints and service of warrants. **Return attached cover sheet with corrected affidavit(s) and paperwork within three (3) business days. THANK YOU FOR YOUR IMMEDIATE RESPONSE.**

NOTE: ALL CORRECTIONS MUST BE MADE TO THE ORIGINAL SWORN COMPLAINT. EACH CORRECTION SHOULD BE INITIALED BY THE PERSON MAKING THE CORRECTION(S).

____ DATE CHECK WAS RECEIVED FROM CHECK WRITER _____

____ CHECK WRITER'S NAME AS SIGNED - SEE CHECK _____

____ REMOVE/ADD/CORRECT CHECK WRITER'S _____

____ ADD/CORRECT VICTIM'S _____

____ ADD THE PERSON'S FULL NAME WHO ACCEPTED THE CHECK _____

____ ADD/CORRECT BUSINESS ADDRESS AND PHONE # OF PERSON WHO ACCEPTED CHECK _____

____ ADD/CORRECT CITY - COUNTY - STATE WHERE CHECK WAS RECEIVED _____

____ CORRECT CHECK AMOUNT \$ _____ CORRECT CHECK # _____

____ CHECK WAS ACCEPTED FOR: _____

____ BANK'S RETURN REASON FOR CHECK IS: _____

____ SWORN COMPLAINT NEEDS AFFIANT'S SIGNATURE (see lower portion of sworn complaint)

____ SWORN COMPLAINT NEEDS NOTARY'S SIGNATURE - NOTARY'S SEAL - SEAL'S EXPIRATION DATE

____ NEED AFFIDAVIT OF MAIL SERVICE NOTARIZED _____

____ OTHER _____

CANNOT ACCEPT CHECKS RETURNED FOR:

STOP PAYMENT
BALANCE HELD
FRAUD
SIGNATURE DOES NOT AGREE

REFER TO MAKER
UNAUTHORIZED SIGNATURE
ACCOUNT FROZEN

FORGERY
UNCOLLECTED FUNDS
UNAVAILABLE FUNDS

CHECKS CANNOT BE FILED IF:

SIGNED BY A JUVENILE
IF ASKED TO HOLD OR DELAY DEPOSIT OF CHECK

POST-DATED

CHECK IS NOT SIGNED
CHECK IS DATED 2 YEARS PREVIOUSLY

Also, see list of "Checks Unacceptable fo File" on page 3 for more detailed information.

AFFIDAVIT OF MAIL SERVICE

I, _____, either on my own behalf or
(Name)

as a representative of _____, hereby swear and
(Name of Business)

or otherwise affirm that a notice pursuant to Chapter 832.07(1)a, Florida Statutes, has been sent to:

at _____
(Street) (City) (State) (Zip)

by United States Mail, and swear or affirm that the address to which the notice was sent was the address on the worthless check or an address taken from the writer of the check on the date that the check was issued to myself or the company that I represent. I further swear or affirm that at least fifteen (15) days have passed since the notice was mailed to the writer of the check at the above-listed address.

SIGNATURE OF AFFIANT: _____

PRINT NAME: _____

ADDRESS: _____

Sworn to and subscribed before me this _____ day of _____, 20_____.

Signature of Notary Public: _____

Print, Type or Stamp Commissioned Name of Notary Public: _____

Affiant is personally known to Notary Public _____ OR Affiant Produced Identification _____ and, if so,

Type of Identification produced: _____

**OFFICE OF STATE ATTORNEY, FIRST JUDICIAL CIRCUIT
SWORN COMPLAINT FOR WORTHLESS CHECKS
(Please Complete Form by Printing With Blue Ink Only or Typing)**

(1) Was check post-dated at time of acceptance? Yes No (2) Were you asked to hold or delay deposit of check? Yes No

A "YES" answer to either of the above questions indicates this matter is ineligible for filing with the 1st Judicial Circuit State Attorney Worthless Check Diversion Program. A recourse may be to file with small claims court or a collection agency of your choice. If both boxes above were checked "NO," complete the complaint form and sign it before a notary.

A Notice MUST be sent to the check writer via first class mail, allowing a fifteen day grace period to pay the check and service fee before the check can be filed, unless the check was returned account closed.

Date Notice was sent: _____ Attach affidavit of mail service and/or any returned envelopes or cards.

1 SUSPECT (Check writer information)	Check writer's name (<i>as signed on the check, not business name</i>)								
	Address								
	City		State	Zip	Home Phone #		Other Phone #		
	SS #		Sex	Race	Date of Birth	Height	Hair	Eyes	Age
	Driver's License #		State	Passport #		Country			
2 CHECK	Employer (if known) and Address						Business Phone #		
	Person who accepted the check:								
	Name: _____								
	Address: _____ Home Phone: _____ Work Phone: _____								
City, State Zip: _____									
COMPLETE A SEPARATE FORM FOR EACH CHECK	Check #	Date Received		Amount	Can Person ID Check Writer?				
				\$	<input type="checkbox"/> Yes <input type="checkbox"/> No				
	Was check received by mail? <input type="checkbox"/> Yes <input type="checkbox"/> No Where was check received? City _____ County _____ State _____								
	What was check accepted for? <input type="checkbox"/> Merchandise <input type="checkbox"/> Services <input type="checkbox"/> Payment on Account <input type="checkbox"/> Cash <input type="checkbox"/> Other _____				Was check handed to you by someone other than the check writer: <input type="checkbox"/> Yes <input type="checkbox"/> No Name: _____ Address: _____ City, State, Zip: _____ Phone: _____				
3 VICTIM (Person who received check)	Check was returned for? <input type="checkbox"/> Insufficient Funds <input type="checkbox"/> Account Closed <input type="checkbox"/> Other _____								
	Victim/Business Name					Phone			
	Victim/Business Address				City	State	Zip		
	Address where check was accepted if different from the above address:				City	State	Zip		

I HAVE READ ALL FILING INSTRUCTIONS, AND HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT ALL INFORMATION IN THIS COMPLAINT IS TRUE TO THE BEST OF MY KNOWLEDGE.

Signature of Person Filing _____
Print Name

Sworn to and subscribed before me this _____ day of _____, 20____.

_____, Notary Public <SEAL>

Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____

Assistant State Attorney _____ Date _____ 832.05(), Florida Statute _____

FOR OSA USE ONLY:

DATE RECEIVED AT STATE ATTORNEY'S CHECK DIVISION, ESCAMBIA COUNTY: _____