



Fraudulent Check,  
Credit Card Fraud  
and ID Theft Guide

## **COLLECTING BAD CHECKS**

The police involvement in bad check cases is for the sole purpose of investigating the incident to determine whether or not there is a violation of the criminal code and if the case is prosecutable. It is not a function of the police to collect bad checks.

In most instances the judge, upon conviction, may order restitution; however, that is the only extent to which the criminal justice system, including the police, becomes involved in recovering the loss resulting from a bad check.

### **SMALL CLAIMS COURT**

If you sustain a loss from a bad check you may file an action to recover such a loss in the Small Claims Court. To be within the jurisdiction of the Small Claims Court, the loss must be \$10,000.00 or less and must be for money only. The Small Claims Court cannot be used to sue for possession of property or to put a tenant out.

### **FILING A CLAIM**

To initiate an action in the Small Claims Court, you need to file a claim at the court that holds jurisdiction. Provo City Justice Court located at 310 W Center St, retains jurisdiction over claims that take place within Provo City Limits. Forms and instructions can be found on the Utah State Court website [www.utcourts.gov/howto/smallclaims](http://www.utcourts.gov/howto/smallclaims).

The debt must be owed to the person initiating the claim; you may not bring an action on behalf of someone else; however an employer may authorize an employee to be his representative.

## **CRIMINAL PROSECUTION**

### **CIRCUMSTANCES THAT PRECLUDE CRIMINAL CHARGES**

There are several circumstances relative to accepting bad checks which preclude police involvement or criminal prosecution;

## **INSUFFICIENT FUNDS CHECKS**

If the account is still open and active it is difficult to establish criminal intent. Therefore, you should process these checks through Small Claims Court or through civil action, unless there are exceptional circumstances.

## **TWO PARTY CHECKS**

Because of the difficulty in proving criminal intent in a criminal prosecution these checks should be handled through civil action, such as Small Claims Court.

## **PARTIAL PAYMENT ON BAD CHECKS**

When you have received a bad check and then accept partial payment from the individual as reimbursement for part of that bad check, criminal prosecution cannot take place. This then should be handled through civil action such as Small Claims Court.

## **STATUE OF LIMITATIONS**

Under section 76-1-302, when a person holds a check longer than the statute of limitations allows them, then the criminal prosecution cannot take place. Refer for civil judgment.

## **POST DATED CHECKS**

If you accept a check which is dated ahead of the day on which you accepted it, even by one day, a criminal prosecution cannot be initiated.

## **“HOLD” CHECKS**

If you accept a check from an individual knowing that the person has no funds to cover the check or having at least reasonable grounds to believe that , at the time, there are no funds in the bank to cover the check, or if he/she asks you to hold the check for any length of time, even for one day, you lose all rights to prosecute him/her for criminal violations and can only recover your loss through civil action such as Small Claims Court.

## **“PAYMENT ON ACCOUNT” CHECKS**

If you accept a check from an individual as payment on a credit account, and the check is returned as “insufficient funds” or “account closed,” there is no criminal violation on his/her part. The only method for recovery is through civil action such as Small Claims Court.

### **SPECIFIC PROCEDURES**

The following are some procedures that should be followed in specific kinds of check cases:

#### **ACCOUNT CLOSED CHECKS**

Upon the return of an insufficient funds or account closed check from the bank you should write a letter to the individual who wrote the check advising him/her of the return of the check because of account closed.

The letter should identify the check or checks by number, amount, date of issue and the name of the payee. If more than one check is involved the same procedure should be followed to identify each of the checks, individually. The letter must be addressed to the person at his/her address as it appears on the check and must be sent certified mail with signature and date of receipt. This proof must be submitted for a case to be opened.

The letter should inform the individual that he/she has 15 days after the notice to pay the check in full, together with any fees or costs added thereon, or further action will be taken. A copy of the letter should be retained as well as the return receipt for use as evidence with the 15 day grace period has expired. If no response is received you have three courses of action:

- 1) Take the check to the court at to file collection procedures through Small Claims Court.
- 2) Turn the check over to a collection agency private attorney for collection. An attorney’s fee may be assessed against the person who has written the check.

3) Turn the check over to the police department for criminal prosecution. This should be done as quickly as possible since the check writer may leave the area and video surveillance is short lived.

A criminal prosecution does not necessarily mean that you will receive restitution for the check, although the Court could include restitution as part of the court sentence

### SAMPLE FORM LETTER

(DATE)

(Name and Address of  
Person who wrote  
insufficient funds check.)

Your check dated \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ drawn on and made payable to this firm or person, has been refused payment because of insufficient funds or closed account.

This notice is sent to you under the provision of the Utah Criminal Code 76-6-505 which states:

**“76-6-505. Issuing a bad check or draft -- Presumption.**

(1) (a) Any person who issues or passes a check or draft for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor, or rent, knowing it will not be paid by the drawee and payment is refused by the drawee, is guilty of issuing a bad check or draft.”

The issuance of a check or series of checks totaling less than \$500.00 within a six-month period without funds is punishable by up to six months in the county jail, and/or \$1000.00 fine.

Please give this matter your immediate attention by contacting this firm in person within 15 days of receipt of this letter.

Very Truly Yours,

(Signature)

## **NO ACCOUNT CHECKS**

The mere fact that a person has no account in the bank of which the check is written is sufficient to establish the intent to defraud. Therefore, upon receipt of a no account check from a bank you should immediately contact the police department so that investigation may be initiated in that the suspect who issued the check may attempt to leave the area.

## **FORGED CHECK**

Upon receiving a check from a bank which has been marks as being forged, you should immediately contact the police department whether the name was forged or whether the check was altered in any way.

## **COMPUTER GENERATED CHECKS**

Computers are being used in crimes more now than ever before. It is common practice to make checks on the computer and imprint a fake account number on the check. The only way to determine if this is a legitimate check is to verify it with the bank.

## **OUT OF STATE CHECKS**

It is inadvisable to accept checks written on an account in an out of state bank. Because of problems with witnesses and evidence, criminal prosecution is difficult. These checks will be handled on a case by case basis.

## **MAILED CHECKS WITH OVERPAYMENT (WESTERN UNION)**

This is a very common fraud where someone will employ you for a job (nanny, tutoring, etc.) or purchasing something from you. They will send you the amount agreed upon, then request that you send the remainder of the funds Western Union to a third party. Typically these checks will initially appear to be valid, but are not. In most cases once the funds are sent Western Union we are unable to locate where the funds are received, thus we are unable to investigate. A case can be generated for information purposes only.

## **HELPFUL HINTS**

Don't take checks written in pencil or felt tip pens, they can be easily altered.

Be wary of two party checks.

Don't take postdated checks or hold checks.

Check the ID carefully.

Require more than one form of identification, one of which should be a valid driver's license with a photo. Check the description, look at the photograph and the person passing the check, and make sure that it is the same person. Also compare the signature on the check with the signature on the license.

Write the license number on the check followed by your initials. This will show that you personally checked the ID.

Don't accept a number already written on the check or one given to you verbally as accurate.

If you are unsure about the check call the bank and verify the existence of the account and if the check will clear.

Don't be pressured into cashing a check.

If you have taken a check and feel uneasy about it, try to obtain the vehicle license plate number of the person who gave you the check.

Don't be afraid to ask about the information on the check.

Keep an up-to-date list of those persons who have passed bad checks to you in the past.

## **ID THEFT/CREDIT CARD FRAUD**

**Step 1 – Contact your bank and other credit card issuers.** If the theft involved existing bank accounts (checking and/or savings accounts as well as credit or debit cards) you should take the following steps.

- Put stop payment orders on all outstanding checks that might have been written without your knowledge or permission.
- Close all existing credit card accounts and any account accessible by debit card.
- Open up new accounts protected with a secret password or personal identification number (PIN). **Do not use the same passwords or PINs as on the original accounts.**

**Do not use common numbers (like birth dates, part of your social security number), or commonly chosen words (such as a child's, spouse's, or pet's name) as passwords or PINs.**

**Step 2 – File a report with the Federal Trade Commission.** You can go online to file an identity theft complaint with the FTC [www.consumer.gov/idtheft](http://www.consumer.gov/idtheft). Many creditors and major credit reporting bureaus will accept the “ID theft Affidavit” available on this FTC web site. Go to <http://www.ftc.gov/bcp/online/pubs/credit/affidavit.pdf>. If you file online, be sure to make a copy for the investigator that will be contacting you.

**Step 3 – Contact all three major credit reporting bureaus.** First, request the credit bureaus to place a “fraud alert” on your file. You must then be contacted directly before any new credit is taken out in your name. Second, file your police report or the report number given to you by the police. File it immediately with the credit reporting bureaus. A fraud report will be shared with the other bureaus. Place a security freeze on your credit reports. By contacting the three credit bureaus by letter or Internet you will be assigned a PIN number that can only be unlocked by you.



You can contact the fraud units at each of the bureaus as follows:

Equifax

P.O. Box 740241  
Atlanta, GA 30374

Consumer Fraud Division  
(800)525-6285

Experian

P.O. Box 9530  
Allen, TX 75013

National Consumer Assistance  
(888)397-3742

Transunion

P.O. Box 6790, Fullerton, CA  
92634-6790

Fraud Victim Assistance Dept.  
(800)680-7289

Federal Trade Commission- for ID Theft- (877) 438-4338

Scamsafe.com – will give you instructions on how to do a security freeze.

**Step 4 – Contact all of your creditors by phone and in writing.**

File a law enforcement report or the FTC’s ID Theft Affidavit, with each creditor (some may require that you use their own form of affidavit).

Keep copies of all correspondence and documents exchanged with each creditor. An identity theft checklist and journal is enclosed in this packet to assist you.

Cancel all existing credit card accounts and open replacement accounts. Ask that those cancelled accounts be processed as “account closed at customer’s request” to avoid any negative reporting to credit bureaus.

**Step 5 – Notify the phone company.** If the identity theft involves the misuse of a long-distance telephone account, cellular telephone, or other telephone service, contact your telephone or wireless company and immediately close all existing accounts.

**Step 6 – Notify the post office.** If you suspect that your mail has been stolen or diverted with a false change-of-address request, contact your local post inspector. You can obtain the address and telephone number of your local postal inspector by visiting the United States Postal Service web site at:  
<http://www.usps.com/ncsc/locators/findis.html>.

**Step 7 – Notify the Social Security Administration.** If you suspect that someone is using your social security number to obtain credit or employment, contact the Social Security Administration's fraud hotline at 1-800-269-0271. To check the accuracy of your work history, order a copy of your Personal Earnings and Benefit Estimate Statement (PEBES) and check it for accuracy. You can obtain a PEBES application at your local Social Security office or you can download one from the Social Security Administration web site: <http://www.ssa.gov/online/ssa-7004.pdf>.

**Step 8 – Notify the State Department.** If your passport has been stolen, notify the passport office in writing to be on guard for anyone ordering a new passport in your name. You can obtain additional information from their web site:  
<http://travel.state.gov/reportpvt.html>.

**Step 9 – If you are contacted by a collection agency** about a debt for which you are not responsible, immediately notify them that you did not create the debt and that you are a victim of identity theft. Follow up with the collection agency and creditor in writing and include a copy of your police report or ID Theft Affidavit.

Send all letters and copy of the report affidavits, "return receipt requested" or with some other process that gives you proof that the collection agency received your letter.

Step 10 – This is one of your most important steps. Record everything. Make copies of everything. Leave nothing out. Get names and numbers of people you have contacted.

You can also visit [WWW.IRIS.UTAH.GOV](http://WWW.IRIS.UTAH.GOV) to make a report online.

The following applicable information is required in order to make a report:

- Name \_\_\_\_\_
- Address \_\_\_\_\_
- Phone Number \_\_\_\_\_
- Date of Birth \_\_\_\_\_
- Driver's License # and State \_\_\_\_\_
- Bank Account Number \_\_\_\_\_
- Credit Card Number \_\_\_\_\_
- Copy of Checks (original preferred)
- Documentation of Fraudulent accounts
- Your bank statement showing the fraudulent charges
- Suspect information if known. (Print Below)

Officer Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

Officer Phone Number: \_\_\_\_\_

Officer E-Mail Address: \_\_\_\_\_

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<http://provopolicedepartment.blogspot.com>

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