

# Office of the County Attorney

Donald F. Ryan, Crow Wing County Attorney  
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Crow Wing County Attorney's Office  
213 Laurel Street, Suite 31  
Brainerd, MN 56401

## Assistant County Attorneys

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Phone: (218)824-1025 Fax: (218)824-1026

Re: Bad Check Forms

Dear Owner/Manager:

Enclosed please find the forms you requested for prosecution of bad checks. You can make a photocopy of these forms and keep for future checks you may receive. **THIS OFFICE DOES NOT ACCEPT "STOP PAYMENT" CHECKS.**

1- Please send the Notice of Dishonored Checks to the writer of the check( s ) to the last known address you have (usually the address on the check). First class mail is all that is necessary, however, you may mail certified if you wish. Keep a copy of the Notice of Dishonored Checks that you mailed to the check writer.

2- After the five business day period has elapsed and **full payment** of the check has not been made, fill out the Affidavit and have your signature notarized in front of a notary public. Please make sure you fill in the line where it asks for what type of identification was presented at the time of issuance of the check.

3- If you mailed the Notice of Dishonored Check by first class mail, you will need to complete an Affidavit of Service by Mail. If you mailed the Notice of Dishonored check by certified mail, you will need to keep documentation.

4- You will need the original Affidavit, copy of the Notice of Dishonored Check sent to the writer, the Affidavit of Service by Mail or certified mail documentation and the original check to send to the proper prosecuting authority. To help you determine the proper prosecuting authority, please use the following as a guide:

Any check(s) written by one individual which total **\$500.00 or more** is considered a felony level offense and this office would prosecute.

Also, any check written in the cities of Breezy Point, Deerwood, Garrison, Crosby, Ironton, Crosslake or Merrifield, no matter the dollar amount, this office would prosecute.

Also, any check written outside city limits but within Crow Wing County, no matter the dollar amount, should be sent to this office. We are located in the Judicial Center at 213 Laurel Street, Suite 31, Brainerd, MN 56401. Telephone 218-824-1025.

Any check(s) written by one individual which total **not more than \$500.00** should be sent to the appropriate City Prosecutor. If the individual wrote the check to a business which is within the city limits of the following cities, it should be sent to the following prosecutor:

Brainerd	City Prosecutor's Office
Baxter	510 Norwood Street
Nisswa	Brainerd, MN 56401
Pequot Lakes	Phone 218/828-2311
	Fax 218/825-8922

When this office has prosecuted your check(s), you will be notified by mail. We may need your testimony in Court for restitution purposes.

Sincerely,

Rhonda Sandell  
County Attorney's Office

Enclosures

**NOTICE OF DISHONORED CHECKS**

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

FROM: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

I hereby give you notice that check number(s) \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_; drawn by you on the \_\_\_\_\_ Bank(s) for \$ \_\_\_\_\_, and payable to \_\_\_\_\_, has been dishonored by nonpayment.

It is expected that you will take care of this matter within five (5) business days from the date of this notice. If you fail to pay this/these check(s) in full within five (5) business days from the date of this notice, this matter will be referred to the proper authorities for prosecution under Minnesota law. Writing bad checks may subject you to criminal penalties.

Minnesota Statute Section 609.535, Subd. 2, provides that whoever issues a check which at the time of issuance, the issuer intends shall not be paid, is guilty of a misdemeanor if the value of the check(s) equals \$250 or less; is guilty of a gross misdemeanor if the value of the check(s) is more than \$250; and is guilty of a felony if the value of the check(s) is more than \$500. In addition, restitution may be ordered by the Court.

In addition to Minnesota Statute 609.535, Minnesota Statute 609.52, Subd. 2, provides that whoever issues a check, draft, or other payment of money, knowing that the actor is not entitled to draw upon the drawee therefore or to order the payment is guilty of theft. Prosecution under Minnesota Statute Section 609.52 may result in convictions for felony, gross misdemeanor or misdemeanor offense depending upon the amount of monies involved and the facts and circumstances surrounding the act.

Minnesota Statutes Section 332.50, Subd. 2, provides that whoever issues any check that is dishonored and is not paid within 30 days after mailing a notice of dishonor is liable to the holder for the amount of the check plus a civil penalty up to \$100 or 100 % of the value of the check whichever is greater together with interest at a rate payable in judgments pursuant to Minnesota Statute 549.09 on the face amount of the check from the date of dishonor, and reasonable attorney fees if the aggregate amount of dishonored check(s) to all payees within a six month period is over \$1,250. Further, a service charge may be imposed immediately on any dishonored check in the amount not to exceed \$20 except that if the service charge is used to reimburse law enforcement for its expenses said service charge may be \$25.

You will also take notice that Minnesota Statutes provide that if this check is not paid in full within five (5) business days from the date of this notice, the bank or other financial institution on which the check is drawn will be authorized to release information relating to the account to the payee, holder of the check, law enforcement authorities or prosecuting authorities.

Sincerely,

\_\_\_\_\_

\_\_\_\_\_



State of Minnesota,

Plaintiff,

vs.

**AFFIDAVIT OF  
SERVICE BY MAIL**

Defendant.

\_\_\_\_\_, being duly sworn, on oath, says that in said County and

State, on \_\_\_\_\_, he/she served the annexed Notice of Dishonored

Check upon the following:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

by mailing to him/her a copy thereof, enclosed in an envelope, postage prepaid, and by depositing same in the post office at \_\_\_\_\_, Minnesota \_\_\_\_\_.

\_\_\_\_\_

Subscribed and sworn to before me  
on the \_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public

State of Minnesota,  
Plaintiff,

vs.

Check Writer's Name

Defendant.

AFFIDAVIT OF  
SERVICE BY MAIL

YOUR NAME

and State, on DATE

Check upon the following:

Check Writer's Name

Check Writer's ADDRESS

by mailing to him/her a copy thereof enclosed in an envelope, postage prepaid, and by depositing same in  
the post office at CITY WHERE MAILED, Minnesota ZIP CODE.

Subscribed and sworn to before me  
on the     day of    , 2008.

Notary Public