



**MONTGOMERY COUNTY
JUSTICE OF THE PEACE**

31350 FRIENDSHIP DRIVE
MAGNOLIA, TEXAS 77355

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MATT MASDEN
JUSTICE OF THE PEACE, PCT. 5

TO: AREA MERCHANTS AND INDIVIDUALS
FROM: **JUDGE MATT MASDEN**
RE: GUIDELINES FOR FILING ISSUANCE OF BAD CHECK

When filing charges for "Issuance of Bad Check", the following criteria MUST be met in order to process in accordance with the Texas Penal Code Article 32.41:

- 1) The check MUST be stamped "NSF" or "Account Closed" by the Bank AND not over 2 years old
** STOP PAYMENT, REFER TO MAKER, NO ACCOUNT, UNCOLLECTED FUNDS, LOST OR STOLEN, TWO PARTY CHECKS, POST DATED CHECKS OR HELD CHECKS CANNOT BE PROCESSED in this Court. For further information, you may contact the Worthless Check Dept. in Conroe at (281) 353-9791.

** THE CHECK MUST HAVE GONE THROUGH THE BANK WITHIN THIRTY (30) DAYS OF THE DATE IT WAS WRITTEN FOR THE COURT TO ACCEPT THE FILING ON "ISSUANCE OF BAD CHECK".
- 2) The Court MUST have a Driver's License Number, Social Security Number, Date of Birth, or five (5) physical identifiers, such as race, gender, height, weight, and hair coloring.
** OTHERWISE, THE COURT CANNOT TAKE THE FILING
- 3) If the Check Writer has shown you paperwork that states their check or checks were lost or stolen, THE COURT CANNOT TAKE THE FILING
- 4) Under the Provisions of ARTICLE 4.12 PC, the check MUST have been passed in Precinct Five of Montgomery County, Texas for the check to be filed in this Court
- 5) The registered or certified mail with return receipt requested MUST be addressed to the signer of the check, regardless of the name of the company styled at the top of the check. You MAY however, mail the certified letter to the address of the company. If the Defendant signs the green card you MUST wait Ten (10) days before filing. If you receive the letter back marked "unclaimed", you may file immediately. REMEMBER: You CANNOT file without proof of the mail being certified.
- 6) The paperwork required for filing is:
 - A) The original check
 - B) The signed green card or the unclaimed letter with green card still attached and unopened or other proof of delivery as stated above
 - C) The Affidavit. An affidavit for EACH check filed MUST be completed even if there were multiple checks issued by the same individual. You MUST sign the affidavit before the Clerk of the Court or have the affidavit notarized.

** REMEMBER: IF A CHECK HAS NOT GONE THROUGH THE BANK WITHIN THIRTY (30) DAYS OF THE DATE WRITTEN, THE COURT CANNOT ACCEPT THE FILING.

Please allow the Court's personnel/clerk to review your paperwork before leaving. Incomplete or inaccurate documents may delay the process. Your cooperation in these matters makes it possible for this office to serve you better.

AFFIDAVIT STATING PROBABLE CAUSE

ISSUANCE OF BAD CHECK

Texas Penal Code Article 32.41

Statute of Limitations - Two (2) Years

Case No. _____

THE STATE OF TEXAS

VS

PERSON ISSUING / SIGNING CHECK
ADDRESS
CITY, ST ZIP

IN THE JUSTICE COURT OF MATT MASHEN
JUSTICE OF THE PEACE PRECINCT 5
MONTGOMERY COUNTY, TEXAS

FILED DATE File Date
Amt. of Check + Service Charge (not to exceed \$30.00) =

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS

I, PERSON FILING AFFIDAVIT, being duly sworn, upon oath state that I have good reason to believe and do believe and charge before the making of this complaint, that:

On or about the day of 20, in Montgomery County, Texas, Precinct Five, Defendant, issued and passed check number, dated, in the amount of \$ payable to the order of MERCHANT / INDIVIDUAL'S NAME, drawn on NAME OF BANK, for the payment of money without having sufficient funds on deposit with the bank for the payment in full of the check.

Affiant is owner of / employed by (Merchant) and is the clerk / office manager / Other who handles customers' checks. Affiant is personally familiar with the business practices of Merchant, which includes a requirement that before owner / employee of Merchant may accept a check from a customer:

- The employee must require that the customer display to the employee the customer's Texas Driver's License or Texas Dept. of Public Safety Identification Card
The employee must compare the photograph on the License or identification card with the customer and determine whether they are one and the same person
The employee must write the customer's license or identification card number on the check
Have the check writer's S.S. # and/or their date of birth
You may state that you can identify the check writer, but only if you have five (5) physical identifiers, i.e., gender, nationality, height, weight, eye color, hair color.
Other procedures:

Affiant has examined the business records of Merchant. Those records reflect that Merchant employs (Employee) and that on the day of 20, DATE OF CHECK, (owner or employee) in the course of business or employment with Merchant, accepted check number, from PERSON ISSUING / SIGNING CHECK Defendant for the payment of money and that the records reflect that the owner/employee followed the procedures indicated above. The records, including the check further reflect that the check was presented for payment within thirty (30) days after it was issued, and it was returned unpaid, marked " NSF OR ACCOUNT CLOSED "

The records also show that on the day of CERTIFIED LTR DATE 20, a written notice was sent to the Defendant by certified mail with return receipt requested, and further show that as of the date of this Affidavit, the Defendant has not paid the check.

AFFIANT

(PERSON FILING AFFIDAVIT)

Sworn to and Subscribed before me on the day of Aug, 20 04.

Notary Public in and for the
STATE OF TEXAS
Commission expires:

AFFIDAVIT STATING PROBABLE CAUSE

ISSUANCE OF BAD CHECK

Texas Penal Code, Article 32.41

****Statute of Limitations - Two (2) Years****

_____ Case No.

THE STATE OF TEXAS
VS

IN THE JUSTICE COURT OF MATT MASDEN
JUSTICE OF THE PEACE PRECINCT 5
MONTGOMERY COUNTY, TEXAS

_____ File Date
_____ Amt. of Check + Service Charge (not to exceed \$30.00) _____ = _____

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS

I, _____, being duly sworn, upon oath state that I have good reason to believe and do believe and charge before the making of this complaint, that:

On or about the _____ day of _____, 20____, in Montgomery County, Texas, Precinct Five, _____, Defendant, issued and passed check number _____, dated _____, in the amount of \$ _____ payable to the order of _____, drawn on _____, for the payment of money without having sufficient funds on deposit with the bank for the payment in full of the check.

Affiant is _____ owner of / _____ employed by _____, (Merchant) and is the _____ clerk / _____ office manager/ _____ Other _____ who handles customers' checks. Affiant is personally familiar with the business practices of Merchant, which includes a requirement that before owner / employee of Merchant may accept a check from a customer:

- The employee must require that the customer display to the employee the customer's Texas Driver's License or Texas Dept. of Public Safety Identification Card
- The employee must compare the photograph on the License or identification card with the customer and determine whether they are one and the same person
- The employee must write the customer's license or identification card number on the check
- Have the check writer's S.S. # and/or their date of birth
- You may state that you can identify the check writer, but only if you have five (5) physical identifiers, i.e., gender, nationality, height, weight, eye color, hair color.
- Other procedures: _____

Affiant has examined the business records of Merchant. Those records reflect that Merchant employs _____, (Employee) and that on the _____ day of _____, 20____, _____, (owner or employee) in the course of business or employment with Merchant, accepted check number _____, from _____, Defendant for the payment of money and that the records reflect that the owner/employee followed the procedures indicated above. The records, including the check further reflect that the check was presented for payment within thirty (30) days after it was issued, and it was returned unpaid, marked "_____".

The records also show that on the _____ day of _____, 20____, a written notice was sent to the Defendant by certified mail with return receipt requested, and further show that as of the date of this Affidavit, the Defendant has not paid the check.

AFFIANT

Sworn to and Subscribed before me on the _____ day of _____, 20____.

Notary Public in and for the
STATE OF TEXAS
Commission expires: _____