

OFFICE OF THE PINAL COUNTY ATTORNEY

Bad Check Handbook

JAMES P. WALSH
PINAL COUNTY ATTORNEY

SIMPLE INSTRUCTIONS FOR USING THE
PINAL COUNTY ATTORNEY BAD CHECK PROGRAM
AND SPECIAL TIPS ON HOW YOU CAN AVOID BAD CHECKS

BAD CHECK PROGRAM

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Check Recovery Program
P.O. Box 745
Florence, Arizona 85232

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Seventh Edition

A Message From The Pinal County Attorney



TO THE PEOPLE OF PINAL COUNTY:

Bad checks cost everyone money. Recipients of checks in this County lose thousands of dollars each year through bad checks. All of us suffer, especially when businesses are forced to raise their prices in an attempt to cover their losses. At one time or another most people have written a bad check, however, bouncing a check is against the law, particularly if the writer does not reimburse the payee for that check immediately. Theft with a pen is subtler than theft with a weapon, but it is still theft and the money, service or merchandise is still lost.

The purpose of the Bad Check Handbook is to explain the procedures that we are using in this County to curb bad check writing and to enforce the Bad Check Law. Please read the handbook carefully.

This guidebook contains the information and forms you will need to start the recovery process concerning bad checks. It also provides information on how to reduce the number of bad checks that you receive.

I am committed to using the resources of my office to assist merchants in solving this serious problem that affects each County resident. We have simplified the process by expanding our services and, at the same time, automating and streamlining the way we do our business. All of this will benefit you as we strive to be better.

It is my belief that all of us who live in Pinal County must face this problem together. As with any group of people engaged in a common undertaking, the more we cooperate, the more successful we will be. I urge you to support and follow our program by reporting bad checks and cooperating with us in the recovery process. It is only by working together that we can make progress against the crime of bad check writing.

Sincerely,

A handwritten signature in black ink that reads "James P. Walsh". The signature is written in a cursive, flowing style.

James P. Walsh
Pinal County Attorney

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Introduction

This Bad Check Handbook is written specifically to help recipients of checks minimize their losses due to bad checks. It explains specific procedures to use when you accept checks that will reduce the number of returned checks. It describes the specific procedures that you are to use when requesting a bad check charge against someone who will not pay you for a returned check. It also explains other information about the services that are available to you through the Pinal County Attorney's Bad Check Program. You should discard all previous editions of this handbook.

The prime objective is to crack down on bad check writing and help each person who experiences a bad check loss to recover the money that belongs to him or her. A second objective is to educate bad check writers to make them aware of the legal action this office will take if the check is not paid and resolved.

The prosecution-based approach means that the County Attorney's Office will stand behind each bad check recipient in his or her endeavors to secure what is rightfully his or hers. If the check writer does not respond to the recipient, he or she will have to respond to the County Attorney or they may face prosecution. The law makes the issuing of a bad check a class one misdemeanor offense, punishable by a fine of up to \$2,500 and/or up to six (6) months imprisonment in the Pinal County Jail. This means that a person who does not respond within twelve (12) days of an initial demand for payment and fails to make full restitution is subject to prosecution by the County Attorney's Office within the specified time.

This is a tough approach, but this is a tough problem. In the past, victims of this crime had few resources upon which to call to help them solve this concern. When the procedures described in this Handbook are followed, the desired results should occur.

*“I’ve received
a bad check.
What do I do?”*

The Bad Check Program – As Easy As 1-2-3

Be prepared to handle bad checks, should you receive them. Establish a store policy and have the forms on hand to submit to the Pinal County Attorney Bad Check Program. If you have received a bad check, you can take the following steps to ensure that you receive the funds that you are entitled to. If you decide to enroll in the Bad Check Program, the forms that you will need to complete the following tasks are included with this handbook.

1.

Prepare a Check Transmittal Form

Please provide as much of the information on the form as possible. Be sure all items are completed. Sign and date the Check Transmittal Form. The accuracy and completeness of this form determines whether or not we can prosecute, if necessary. Use a separate Check Transmittal Form for each bad check.

2.

Complete Only One Cover Sheet

Fill out only one (1) cover sheet no matter how many checks you are submitting to the program. The cover sheet will also serve as the enrolling document into the Bad Check Program. Send the original check(s) you are submitting and the Check Transmittal Form(s). If you have already sent a Demand Letter — which is optional — send us a copy, together with proof of the method that was used to deliver it to the check writer.

Mail to:

**Pinal County Attorney Bad Check Program
P.O. Box 745
Florence, Arizona 85232**

3.

Keep Records

Whatever process you deem necessary or more suitable to your needs is what you should use. The important thing to realize is that a systematic simplified approach to maintaining check information will safeguard against loss of documents and minimize storage needs.

Optional – In the past, the Bad Check Program has required you to send a Demand Letter to the check writer. If you choose to enroll in the Bad Check Program, the County Attorney’s Office will send a Demand Letter for you. However, if a Demand Letter is sent by you, keep a copy for your records. If you have access to a photocopier that can print on both sides of the same sheet of paper (duplex) it is a good idea to print the Demand Letter and Transmittal Form on that sheet.

Instead of writing or typing out the check description portion of the Demand Letter (the area in the middle of the page which is set off by parallel lines), you may wish to place the check within the lines, face up, and staple it to the Demand Letter. (You must be sure it fits within the

lines and does not cover any of the balance of the writing in the letter.) Upon completing the Demand Letter, you may then photocopy it with the check attached and mail ONLY the PHOTOCOPY portion of the letter to the bad check writer.

The Demand Letter may be hand delivered, sent certified mail (with a green return card), or regular mail. Do not change the language in the Demand Letter because this is in language that is required by law. If hand-delivered, wait 12 calendar days before submitting the check to the Bad Check Program; if sent by certified mail, the law adds five (5) days for mailing, so you must wait 17 calendar days from the date of mailing before submitting the check to the Bad Check Program.

Information Concerning Case Status

Persons requesting information and status on a case that was submitted to the County Attorney Bad Check Program are asked to wait at least 60 days before making an inquiry. If 90 days have passed and you have not as yet received restitution or been contacted by this office, charges against the check writer may have been filed or the case is still pending.

Additional Information

Once you have sent a bad check to the County Attorney

Do not accept repayment for the check from anyone except the County Attorney. The Bad Check Program must collect all monies for such checks. This is the only way the system will work.

If you do accept repayment from anyone other than the County Attorney, we will assume you wish to handle bad check collections personally, and will return all checks previously submitted to the Bad Check Program for collection.

Restitution

When bad check writers pay the full restitution, it will be made payable to the Pinal County Attorney. The information will be entered into a computer and you will receive a check from the Bad Check Program. A cover letter will be mailed to you with the restitution, and will disclose the following information: The name of the bad check writer, the bad check number, the bad check date, the bad check amount and the victim fee amount.

Checks that cannot be collected

If, after all notices have been sent, and additional investigative work has been unable to yield results, you will be notified and the bad check will be returned to you so that you may take whatever further action, if any, that you deem appropriate.

Civil Judgments

If you have obtained or are seeking a civil judgment, this office cannot process the check. Do not send such checks to the Bad Check Program.

Additional Information

Tip:

When you are trying to collect the check yourself, do the following:

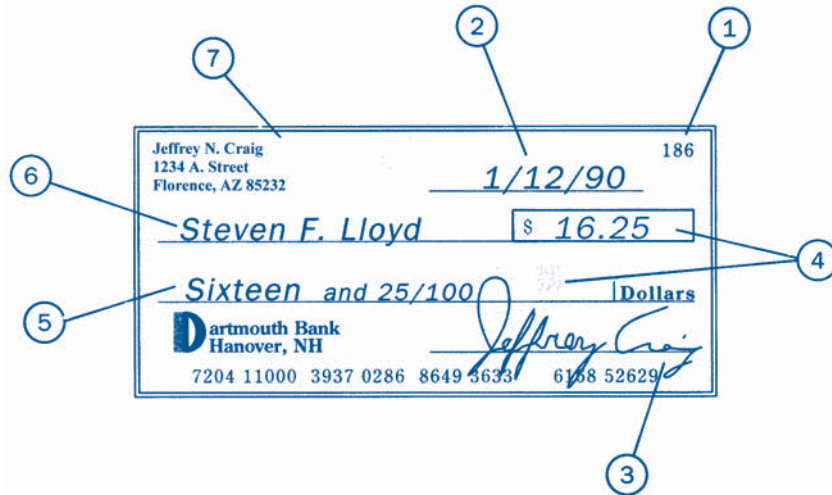
- Accept only cash, money orders or cashier's checks.
- Be certain to collect your reasonable costs in fees as well. Those costs include any bank charges you were required to pay and the cost of mailing, if that is the method you chose.
- Do not accept partial payments.
- Return the check to the individual after you have received payment in full.

WHEN YOU RECEIVE A CHECK

To safeguard against taking a bad check, we encourage you to do the following:

1. Be cautious of new checking accounts

Of all the insufficient, “hot” checks, 90% are drawn on accounts less than a year old. The consecutive numbers in the upper right hand corner begin with 101 and you should be especially careful when taking low numbered checks. Because knowing the age of the account is so important, some banks now print a code of when the account was opened (for example, 0278 means February, 1978) on all checks.



2. Check the date for accuracy

This eliminates the possibility of receiving postdated checks (those dated in the future). If a check was postdated, it is one of the defenses under the law.

3. Verify that the check is not forged

Follow the steps pertaining to identification on the next page. Always demand identification. Verify the signature on the check with the signature on the identification.

4. Do the word amount and the number amount match?

A check for “\$16.25” should say in words “Sixteen and twenty-five/100s dollars” or “Sixteen and 25/100’s dollars.”

5. Do the amounts appear to have been altered?

Check the numerals **and** the words to see if they appear to be consistent with other writing, if there is crowding and if there is any contrast in ink color or density. Any inconsistencies may suggest an alteration.

6. Does it appear that the name(s) of the payee(s) has/have been changed?

If the color, density or writing of the name appears different, there may have been an alteration. If a check appears to be made payable to two or more payees in the alternative (e.g., “AB or CD”), and the second name appears different in color, density or writing from the first, there may have been an alteration.

7. Place all information on front of check

Either write the information consecutively across the top of the front or use the cross method:

Driver’s License number	Expiration date
Clerk’s initials	Amount
	Issuer matched to ID? Yes ___ No ___

WHEN YOU RECEIVE A CHECK

Note: Make sure the check writer does not write their Arizona Driver's License number, or other photo ID number, on the check. Ask for the ID card and do it yourself. This protects against a false number being provided. Also, the presence of your handwriting is another way for you to identify the check at a later date, as required for prosecution. Remember, a witness is required to successfully prosecute a criminal case. The witness must be the person who accepted the check. Be certain the clerk's identity can be determined from the face of the check by the person in your company who must fill out the Check Transmittal Forms to mail checks to our office. We may return the check to you if you do not provide us this information.

Always Demand Identification

1. Primary Identification is an **Arizona Driver's License** and should be used in all cases, even when a bank guarantee card is presented. Look to see if the person in the photo and the person standing in front of you are the same. Then compare the name and address on license to those on check. Also, compare the signature on the license to that on the check. Compare the photograph on the license to the person passing the check. Make sure their driver's license has not expired. Do not accept check with expired identification.

2. Secondary Identification includes **Military ID** and a **credit card** with a name matching the one on the driver's license. Other identification that is acceptable is an "official" issued identification card with a picture.

Note: Social Security cards are not appropriate I.D. and should not be accepted as such.

Requiring identification documents minimizes the chance of receiving a bad check. A driver's license number written on the check allows us to obtain a copy of the license which contains a photograph. A date of birth also helps. The driver's license provides the photo, a handwriting sample, and description of the check writer. **All of this is needed for successful prosecution.**

3. Any other identifying numbers or information would be name(s), address, telephone numbers (found on front of check) and number(s) from credit card(s), vehicle license plate numbers, etc. Use check guarantee cards. Reliance on bank guarantee cards, presented with your customer's personalized check, can assure payment to you. However, certain conditions and restrictions may apply, so we strongly recommend the use of an Arizona Driver's License or an Arizona Identification Card as the primary identification.

If you still have doubts about the check, don't accept it

You are not required by law to accept checks. You may lose the sale, but you won't lose the item or the cash.

TIPS:

- Examine Driver's License carefully. Is the person in the photo the same person standing in front of you? Has the license expired? Expired licenses are worthless and difficult to prosecute.
- Ask for local, not national, credit cards. The major card companies have policies against giving out information about their customers (which is why you take credit cards in the first place).
- Place your initials on all checks. If prosecution occurs, it will be necessary to establish that the person identifying the passer was the one who accepted the check.

REMEMBER: Be impressed with the check — not the person.

Matters Not Handled By The Pinal County Attorney Bad Check Program

1. No post dated checks, post dated from date of receipt/acceptance.
2. Warrants and checks issued by a government or governmental agency because of governmental immunity from suit.
3. Credit card or debit card slips because these are not checks.
4. Checks drawn upon a bank located in another state because process of this state cannot expediently compel production of bank records from such a bank.
5. Checks where the check writer is located in another state because of the legal and financial impediments to extradition for a misdemeanor offense.
6. Checks which the holder has first given to any private collection agency for action before submission to this Program.
7. "Stop payment" checks as to which there were sufficient funds on deposit to pay said checks if payment was stopped AFTER issuance/passing.
8. Checks issued/passed in another county or state and not introduced into Pinal County by conduct of the issuer/passer because the crime occurred in the other location.
9. Checks issued in matters that constitute civil disputes.
10. Checks presented by a holder who has previously accepted payment from a check writer or passer as to checks which had been given to this program to process. See Bad Check Handbook.
11. Checks as to which you were expressly notified before the drawing of the check or has reason to believe that the check writer did not have on deposit sufficient funds to pay the check on its presentation.
12. Checks as to which the insufficiency of funds results from an adjustment to a person's account by the credit institution without notice to the person. This is a statutory defense.
13. Dual signature checks (not to be confused with checks written on joint accounts).
14. Bad checks passed on an Indian Reservation by an Indian or to an Indian, because we do not have jurisdiction.
15. Checks written more than six (6) months prior to submission to the Program may be rejected because of insufficient time to process within the statute of limitations, or difficulty of locating witnesses.
16. Checks received in the mail, from outside Arizona, will be reviewed on a case-by-case basis.

NOTE: Most of the above may be pursued civilly. You are advised to seek private legal counsel.

What becomes of the Bad Check Writer

The maximum penalty for each bad check offense is six (6) months in jail and/or a \$2,500 fine; a statutory collection fee; and restitution of twice the amount of the check, or \$50.00, whichever is greater; together with all applicable costs and fees.

As soon as the County Attorney Bad Check Program receives your packet containing the bad checks, the person's name is entered into our automated computer system and a decision is made as to whether the person will be allowed to pay restitution or if prosecution is an option. If the person is eligible, he/she will be offered the opportunity to pay restitution and avoid prosecution. If the check writer is offered the opportunity to pay restitution and does not, steps will be taken to begin the prosecution process and the check writer will face progressive consequences and increased fees.

Part of the progressive consequences includes attendance of a Bad Check Class. Those who complete the class and pay the entire amount of the restitution, class tuition, and collectable fees to the Bad Check Program will have charges dropped or will not be charged. Prosecution will only be considered when identification has been taken.

If the person is not eligible for The Diversion Program due to previous arrests, previous bad check charges, other pending criminal charges, and excessively large check, strong evidence of intent to defraud, or some other valid reason, he/she will be referred for prosecution. When this happens, a police investigation is commenced and is an indispensable part of the prosecution process.

The filing of charges against a bad check writer depends on whether sufficient evidence exists to charge the person with a criminal offense. If charges are filed, it is because identification can be made and/or identification was taken and we can pursue action. If charges are filed, the victim of the check and witnesses may be subpoenaed at the time of the trial unless a guilty plea is entered.

The Bad Check Class that is required as part of the progressive consequences is a one-day, 5-hour class that uses a group process approach with participant involvement. The class is a learning tool to curtail bad check writing.

THE DEMAND LETTER, TRANSMITTAL FORM & COVER SHEET

This handbook contains copies of all the forms that you will need to submit to the County Attorney Bad Check Program, along with the bad checks, in order to start collection procedures. The forms may be torn out and photocopied for your use.

The Demand Letter (Optional)

The Bad Check Program previously required the business owner to send a Demand Letter. If the business owner would like, we will send the Demand Letter for them. The option still exists, however, for you to send the Demand Letter.

The Demand Letter that is sent to the check writer is required by the bad check statute, A.R.S. §13-1808E. This letter must be sent by either regular mail, or certified mail to the check writer or hand delivered directly to the check writer. If the demand letter is mailed, the individual must wait 17 days after mailing before submitting a copy to the County Attorney Bad Check Program for collection. If the Demand Letter is hand delivered, the waiting period is 12 days from the time of delivery before you send us a copy of the Demand Letter, along with an affidavit of service.

The Check Transmittal Form

To assist in the prosecution of bad check cases, we need any information that you have concerning the check writer, as well as the details surrounding your acceptance or receipt of the check. Please make sure that the form is complete and all items answered before submitting it the County Attorney Bad Check Program.

Remember: Use a separate Check Transmittal Form for each check.

The Cover Sheet

The Cover Sheet is used to provide the Bad Check Program with information about the individual or business submitting the check. If you are submitting a check for the first time, please fill out the entire Cover Sheet with as much information as you can. If you have already submitted a Cover Sheet to the Program, simply fill in the top portion of the form, or the first seven (7) lines. Please update any new or changed information.

Bad Check Filing Example

Original certified letter receipt and/or returned certified letter envelope, if this is the method used.

The Demand Letter, which is optional, must be sent regular mail, certified mail or hand delivered to the check writer before the Bad Check Program can process it. If mailed, wait 17 days before submitting a copy of Demand Letter to the Bad Check Program. If hand delivered, wait 12 days.

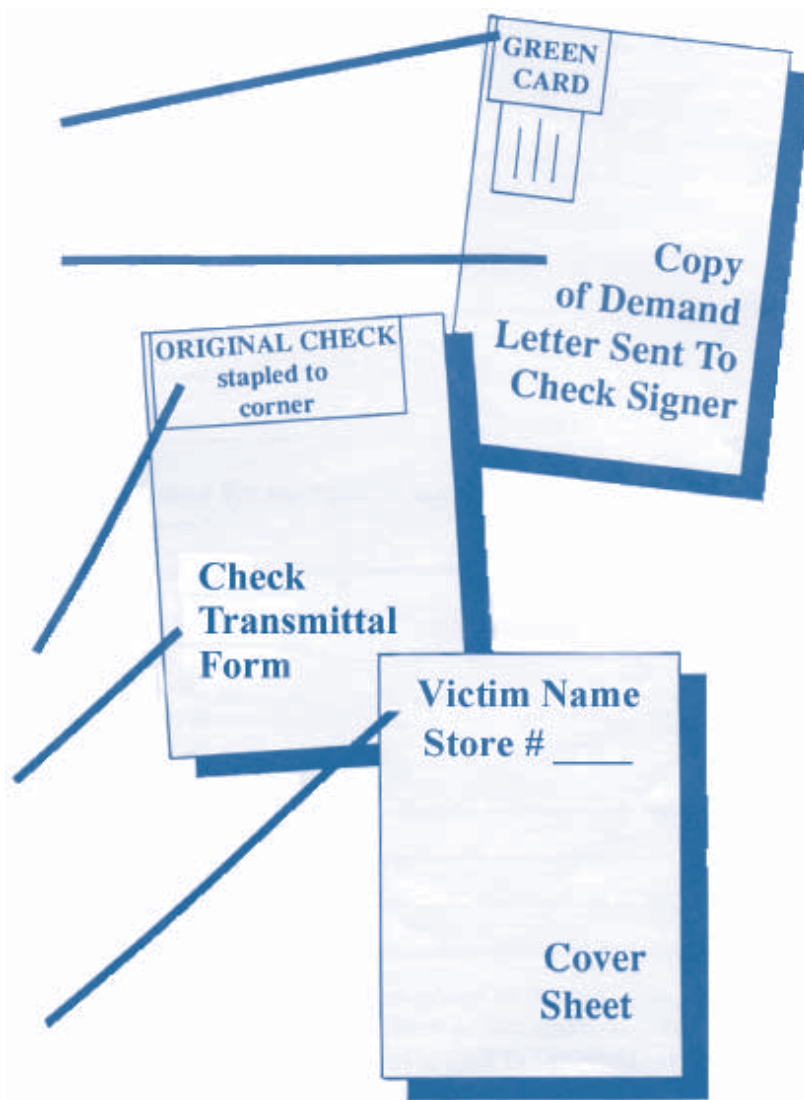
The Bad Check Program will send a Demand Letter on your behalf, if you so choose.

The bank must stamp check with the reason for dishonor.

Fill out the Transmittal Form completely.

Victim information is necessary if you have not used the County Attorney Check Recovery Program before or need to update current information.

Do not send any items without all of this information; it will only slow down the entire process. Cases without all of this information will be returned.



HOW TO SPOT FORGED CHECKS

Check for Perforations

You'll be able to feel perforations on at least one edge of all legitimate checks except for government checks printed on computer card stock. Perforation equipment is expensive and bulky, so most forgers use a regular paper cutter, leaving all four sides smooth.

Watch for Clues Revealing Color Copies

Magnetic routing numbers at the bottom of a check will be raised off the surface - almost like Braille - because of the dull ink's effect on the reflective light duplicating process. The numbers on the copy will be shiny instead of dull. Also, because the color is created by a chemical process rather than by ink, the moisture from your fingers will often cause them to smear an opposite color.



Check Magnetic Numbers for Dull Finish

The special magnetic ink that is required for automated check sorting is extremely flat and dull. If you spot shine, or reflected light, off these numbers when you tilt the check under normal lighting, it is probably a forgery. This ink is expensive and restricted so the forger will usually not go to the trouble to obtain it. Being aware of the short cuts taken by forgers due to expense and unavailability of certain papers and inks will help you to quickly and easily spot forged checks.

Verify Federal Reserve District Numbers

The nine-place number between the brackets is the routing code for the bank the check is drawn on. The first two indicate which of the 12 Federal Reserve Districts the bank is located in. Refer to the codes below. It is important that you compare this to the location of the bank since a forger will sometimes change these in order to buy more float time while the check is routed to a distant, incorrect Reserve Bank. It should also agree with the routing fraction printed in the upper right hand corner.

Federal Reserve Bank Codes

01 - Massachusetts, Maine, New Hampshire, Connecticut, Vermont, Rhode Island
02 - New York, New Jersey, Connecticut
03 - Pennsylvania, Delaware, New Jersey
04 - Ohio, Pennsylvania, Kentucky, West Virginia
05 - Virginia, Maryland, North Carolina, Washington, D.C., South

Carolina, West Virginia
06 - Georgia, Alabama, Florida, Tennessee, Louisiana, Mississippi
07 - Illinois, Michigan, Indiana, Iowa, Wisconsin
08 - Missouri, Arkansas, Kentucky, Tennessee, Indiana, Illinois, Mississippi
09 - Minnesota, Montana, North Dakota, South Dakota, Wisconsin, Michigan

10 - Missouri, Colorado, Oklahoma, Nebraska, Iowa, Wyoming, Kansas, New Mexico
11 - Texas, Arizona, New Mexico, Louisiana, Oklahoma
12 - California, Oregon, Washington, Utah, Hawaii, Alaska, Idaho, Nevada, Arizona

Other Negotiable Instrument Codes

On drafts issued by savings and loan institutions and mutual savings banks, magnetic bank routing numbers may start with the digit 2 or 3. Credit union drafts are honored by the bank on which they are drawn. International traveler's checks have routing numbers starting with 8000. U.S. Government checks contain the routing number 0000-0051.

ATTACH CHECK HERE

Pinal County Attorney

Bad Check Program

Check Transmittal Form

Victim Name _____

Victim Store # _____

ANSWER THE FOLLOWING QUESTIONS FOR EACH CHECK AND ATTACH THE ORIGINAL CHECK

Check Number:	Check Amount:	Date Issued:
Check Writer's Name (Name of person who signed check):		
Check Writer's Address (if different from check):		

Was Check Postdated? Yes _____ No _____
 Did the check writer state that he/she had insufficient funds to cover check? Yes _____ No _____

This check was received: _____ In person _____ By mail _____ Other (Explain) _____

WITNESS: Who received/accepted the check? _____
 Does the Witness remember receiving this check? Yes _____ No _____
 Can the Witness personally recognize the check writer? Yes _____ No _____
 Did the Witness compare the check writer to a picture ID
 and record the ID number on the check? Yes _____ No _____
 If yes, type of ID taken and number? _____
 (Driver's License number, photo bank card, etc.) _____
 Notice was sent to the check writer by: _____ Certified Mail _____ 1st Class Mail _____ Personal Delivery.
 Notice was sent (date) _____ No notice was sent to check writer _____.

Is there any other or additional means by which the check writer can be identified or located?

Has check writer ever been employed by you? Yes _____ No _____ Please give as much information as possible:

Is it your business practice to compare identification containing a photograph while the check writer is
 standing in front of you? Yes _____ No _____

I CERTIFY THAT I HAVE READ ALL OF THE INFORMATION CONTAINED ON THE ABOVE CHECK TRANSMITTAL AND THAT IT IS TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Signature: _____ Date: _____

If no identification was obtained or can not be made, the Pinal County Attorney will attempt to collect via diversion, but we cannot file a criminal complaint.

Cover Sheet

PINAL COUNTY ATTORNEY'S OFFICE

BAD CHECK PROGRAM

COVER SHEET FOR FILING BAD CHECKS WITH THE BAD CHECK PROGRAM

1. DATE _____

2. VICTIM NAME _____

3. Address _____

4. Store location or number _____

5. Number of Check Transmittal Forms enclosed _____

6. Number of checks enclosed _____

7. Name of person submitting packet _____

.....
If this is the **FIRST TIME** you have submitted a check to the Bad Check Program for collection/prosecution, please complete the following:

Read the Pinal County Attorney Bad Check Handbook to ensure that all appropriate procedures have been followed. Be sure to include this form, and a Check Transmittal Form for each check. Complete items 2-7 above. In addition, please complete:

Legal business name _____

Business mailing address _____

Physical address if different _____

Name of your organization's contact person when questions arise _____

Telephone number _____

Name of owner or manager _____

Telephone number _____ FAX number _____

How should restitution checks be made out? _____

Address to send restitution _____

Name of Headquarters _____

Headquarters address/ZIP _____

Headquarters telephone _____

Name of headquarters contact person _____ Title: _____

Type of business of store _____

Do you have multiple sites Yes _____ No _____ Number _____

IF YOU HAVE FURTHER QUESTIONS, CALL THE BAD CHECK OFFICE AT:

(800) 237-5924

(520) 868-6604

Demand Letter

Notice of Dishonored Check

To _____ Date _____

You are, pursuant to law, hereby notified that the check or instrument shown or described below, issued by you, has been dishonored:

Instrument/check number: _____ Instrument/check date: _____

Originating Institution, Bank or Other Drawee: _____

Amount: \$ _____ Payable to: _____

Reason for dishonor (market on instrument): _____

Pursuant to Arizona law, you have twelve (12) days from receipt of this notice to pay or tender to the holder named below the full amount of the check or instrument, together with all reasonable costs and protest fees. Unless this amount is paid in full within the time specified above, the holder of the dishonored check or instrument may turn over it and all other available information relating to this incident to the County Attorney for criminal prosecution.

Check Amount \$ _____ Signed _____

Fee Amount \$ _____ Name _____

Total Owed \$ _____ Address _____

Telephone # _____