



Credit and Financial Development Division NEWSLETTER

The Official Publication of the NACM Credit and Financial Development Division

August 2015

Letter from...

Kim Lancaster, CCE, CICP
CFDD National Vice Chairman
Education, Programs and
Chairman-Elect



Moving Forward Together

As your Vice Chairman of Education, Programs and Chairman-Elect, I would like to draw your attention to the national programs offered by NACM/CFDD, which are located on the CFDD website. The programs are Power Point presentations, which include handouts and supporting notes to help the trainer or session leader present the material.

They are great tools for chapters that need to fill in their year of monthly speakers or make an all-day seminar with three or four programs to raise scholarship funds. The programs are well thought out and can be taught by anyone within the chapter. You don't have to be a CCE or ICCE to teach fellow members.

Take advantage of these programs, which include the following: Effective Relationships, Sales & Credit, Credit Jeopardy, Human Resources and the Credit Manager, and so many more. If you have an idea or topic you would like developed, please let me know. Your National Board is always open to suggestions, and we would love to add a new program to the list.

The CFDD National Conference will be held jointly this year with the Western Region Conference in Portland from Oct. 14-16. I do hope each of you can make it. We also hope your chapter will consider making a donation to the CFDD National Scholarship Fund this year. Donations should be mailed directly to NACM-National. We are also accepting donations for the Silent Auction of items with a value of \$25 or more, which may include gift baskets, gift cards, jewelry, small appliances, artwork, small hand tools, car accessories, and other items. See pages 5 and 6 for more information. Please get together and support this effort. Your National Board would greatly appreciate it.

Moving in one direction, together, we can accomplish more as we make our journey through CFDD. We are dedicated and determined members of this organization. We understand what it means to be part of this family, the CFDD family. **Honor, Tradition, Pride, Support, Integrity**, all the things a family needs to grow and be strong. Please continue to support and be part of your organization.

Be ready to answer the question, "What is CFDD all about?" Share the news with others and watch your chapters grow.

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NACM

Western Region
and
CFDD National Conference

OCTOBER 14-16 • PORTLAND, OREGON

Register Now!

Members: \$475, Non-members: \$595

See page 4 for **program highlights**.

See pages 5-6 for **Silent Auction information and donation form**.

First-Time Credit Congress Attendee Review

I was able to attend my first NACM Credit Congress in May of this year. It was very exciting to be able to participate after hearing so many credit colleagues talk about attending each year.

I arrived on Sunday, got checked in and then ran into the Kansas City gang at the bar mingling, discussing and strategizing the week ahead. It seemed like that is what went on the entire week—lots of mingling, talking, strategizing, comparing, sharing and so forth. This was probably the most beneficial aspect of attending Credit Congress for me—networking with other credit professionals.

The opening speaker was definitely a great start to get you motivated for the week—and just life in general. I thought the sessions

were very beneficial in a variety of ways: Some were motivational and some were educational. I particularly enjoyed having so many to choose from. Some of the classes were offered multiple times—so it was nice to talk to other colleagues about the classes they attended and have an opportunity to add a different class to your schedule based on their reviews.

By far, the best part is networking with others who are in your field and talking about issues that we all face in our day-to-day jobs. I definitely plan on attending another Credit Congress in the future.

Submitted by Sara Prochelo, CCE, CCRA, Kansas City Chapter and Assistant Credit Manager at Bartlett Grain Company, LP.

From a Student's Perspective

For the past six years, I have worked as a credit professional for a Fortune 500 company. I have had the pleasure of gaining knowledge from people with extensive backgrounds in mitigating risk and credit management. Over time I have become very confident in my ability within this field. I felt that I knew the “ins and outs” of risk management; but because our world of credit is ever-evolving, I knew that there had to be more. I was introduced to NACM through colleagues and thought that if nothing else, this would present an opportunity to network and build relationships with other credit professionals. Little did I know what was really in store for me as a member of NACM.

With the encouragement of my peers, I decided to continue my education through NACM by enrolling in courses to receive my CBA designation. After the first class in Business Credit Principles, I was

able to see that I had only scratched the surface of all that is involved with credit. I knew how we did things, but I was able to get a good understanding of why we make the decisions we do. I can say that taking Business Credit Principles has made me even more confident in my abilities as a credit professional and much more hopeful for what's to come. As I continue this path to achieving my CBA, I am now enrolled in Accounting, and I couldn't be more excited about how close I am to receiving my designation. I am grateful to have the opportunity to increase my knowledge in this field through NACM, and I hope to one day be able to achieve the CCE designation.

Submitted by Brittany Montgomery, Birmingham Chapter, Area Supervisor Financial Services at The Sherwin Williams Company.

From an Instructor's Perspective

Years ago, as a student working to obtain my NACM designations, I never saw myself as an instructor. I didn't realize the passion it would ignite in me to share my knowledge with others. I certainly didn't realize when I became an instructor for NACM how invested I would become in the success of my students, or the personal fulfillment it would provide. If you can teach a subject you are passionate about and can ignite that passion in others, it is incredibly rewarding.

As an instructor, I have the opportunity to share what I have learned with co-workers and other credit professionals, as well as continuously refreshing the knowledge I worked so hard to gain. Teaching

brings a different aspect to the material. The discussions inspired from the material stimulate and energize the class, particularly when students realize how it specifically applies to the job they do every day. It gives everyone, myself included, a much broader perspective of why specific laws are needed and the impact collection tools can have for our companies. The more knowledge we possess, the better we are able to manage the risks of selling business to business.

Submitted by Ayrika Williams, CCE, ICCE, Birmingham Chapter, Area Supervisor Financial Services at The Sherwin-Williams Company.

What is GSCFM?

What is GSCFM? I'm sure most of you reading this article already know what NACM's GSCFM stands for, but just in case, the acronym is defined as the Graduate School of Credit and Financial Management. For me, GSCFM represents a plethora of education and opportunity.

I just completed my first year on the beautiful Dartmouth campus. The education that NACM provides for this program is unsurpassed. While you only spend two weeks in class, it feels like an entire semester at Dartmouth with all of the information you receive. The instructors that NACM pulls for this program are amazing. Topics range from cash flow analysis to corporate strategy, public speaking, and finally extend into a program on body language. You really do touch all aspects of being a successful credit manager and leader. All of the instructors were very personable; they shared meals and experiences with the class. I felt like we really had a chance to connect with them on a personal and professional level.

The other immeasurable benefit of this program is the relationships you build during your time at Dartmouth. NACM does an incredible job making sure you have ample opportunity to really connect with your fellow classmates. Staying in a dorm as an adult was quite the experience, but NACM really made it comfortable and made sure that we had everything we needed or wanted, right down to my favorite

type of tea. Thank you Tracey! We had many opportunities to sit in the common room and chat or play games and really get to know one another. I am confident these are friendships I will cherish for many years to come.

Our summer projects are getting underway, and I am excited to stay connected with my classmates through this process. We are also studying for our CCE exam, which we will take next summer while at Dartmouth. This is by no means a cakewalk; we are all working hard and pulling together to study and prepare for the exam, giving each other encouragement along the way.

If you have ever thought of attending this program, I highly encourage you to do the research and make that commitment. After speaking with people involved with GSCFM, it's apparent that many companies believe in this program and have encouraged their employees to attend. My hope is that once your company sees the benefit and realizes the value, it will support you in this dynamic educational offering.

I can't wait to see my classmates next year and I hope to see you too!

Submitted by Tawnya Marsh, CBA, Portland Chapter and Credit/ Customer Service Manager at Columbia River Knife & Tool.

Hiring and Pay are Not Accidental

The impression left in many minds is that employers and employees are locked in some kind of game where a victory for one is a defeat for the other. It seems that most believe employers sit around and scheme how to pay their employees less and employees spend all their time plotting how to do as little as possible and get paid as much as possible. In fact, this is not what is on the minds of either—both are primarily concerned with the job at hand and getting it done as efficiently as possible so that there is a business to run and a job to be held in the future.

The employer hires when labor is needed. The basis of the decision is the same as with any input—materials, capital, etc. The pay offered is not determined arbitrarily either. The employer knows what revenue is needed to cover costs and provide a profit sufficient for staying in business and therefore manages those costs—most especially labor costs. The decision to hire and the decision about what to pay is a balance between the realities of the business and the realities of demand as regards that worker. If this is a skill needed, the employer pays what is required to keep that employee—up to the point at which the revenue no longer supports being in business at all.

There have been many changes implemented of late that will affect what people are paid—expansion of the minimum wage and the extension of the overtime rules. In both cases, the stated intent is to “grow the middle class.” The assumption is that business will simply pay the higher wages and make these employees a little better off. Some will of course, but many will not. The pay they have settled on is related to the revenue they require and somehow they will find a way to keep labor costs down. The higher minimum wage will mean that fewer will be hired, but the expanded rules on overtime will likely promote more part-time and low-wage hires. Rather than paying the overtime, companies will ensure that those eligible work less than the 40-hour week that triggers the extra pay. They will likely hire more fill-in workers and expand the unpaid overtime for the managers that make over \$50,400.

The new rules will change many things—some will indeed be better off and some will lose their jobs altogether. Some will see fewer hours and others will be replaced. It is guaranteed that the outcome will not be quite what the advocates anticipated. Whether this is a good thing or bad will depend on where the employer and employee stand when the dust settles.

Source: NACM Economist Chris Kuehl, Ph.D., Armada Corporate Intelligence.

NACM

Western Region and CFDD National Conference

CITY OF PORTLAND

October 14–16

Portland, Oregon

DoubleTree by
Hilton Portland

**TechCredit: Where
Technology & Credit Unite**

In October, we will gather for the 2015 CFDD National Conference held jointly with NACM Western Region in Portland, Oregon, which offers priceless educational resources and multiple networking opportunities.

Our agenda includes the following:

Thursday

- Economic Outlook presented by **Chris Kuehl, Ph.D.**, Armada Corporate Intelligence
- Internet Fraud & Cybersecurity presented by **James McClain** and **Val Jimenez**, Pinkerton
- Computing in the Cloud presented by **Chris Cochran**, ISOsource
- The NACM Database and PRA presented by **Michelle Herman** and **Gina Calabrese, CMP, CGA, CMS**
- The Credit Department of Tomorrow presented by **Mike Myers**, Experian
- The Electronic Credit Department & Legal Issues presented by **Scott Blakeley, Esq.**, Blakeley LLP
- Online Credit Resources for the Trade Credit Function presented by **Jason Torf, Esq.**, Horwood Marcus & Berk
- Technology for the Trade Credit Function presented by **NACM Preferred Partners** panel
- Legal Issues Panel presented by **Scott Blakeley, Esq.**, **Jason Torf, Esq.** and **Bruce Nathan, Esq.**
- The Customer is (Almost) Always Right—Using Social Media to Assess Business Health & Credit Risk presented by **David Huizinga**, Experian

Friday

- Making Human Connections with Technology presented by **Beth Ziesenis**
- Electronic Payment Processing—New Tools and Technology presented by **Dean Middleton**, UTA and **Matt Fluegge**, Vantiv
- Technology & the Evolution of Credit, presented by **Chris Rios**, Dun & Bradstreet
- A Day in the Life of a Nerdy Credit Manager presented by **Beth Ziesenis**

Several networking events will be held, including an opening night reception featuring a CFDD Silent Auction, a dinner and CFDD Dessert Fundraiser, plus a wine country tour after the conference ends for interested participants.

Thursday night dinner theme: “Portland Hipster”

Registration Fees

Conference

Members: \$475, Non-Members: \$595

International Business Day Pre-Conference Offering

Members: \$575, Non-members: \$795

IBD Only – Members: \$175, Non-members: \$295

Thursday Evening Banquet Extra Attendee: \$95

Friday Afternoon Wine Country Event: \$95 per person (includes dinner and transportation)

Registration

For more information about registration and conference details please visit: www.nacmwrc.com

Hotel

The conference hotel is sold out; however, additional rooms have been reserved at:

Marriott Residence Inn Portland Downtown/Lloyd Center

1710 NE Multnomah St.

Portland, OR 97232

Click [here](#) to book now.

View the full NACM Western Region and CFDD National Conference brochure [here](#).

For more information, email [Charlene Gothard](mailto:Charlene.Gothard@nacmwrc.com) or call 503-286-7188.

CFDD Scholarship Fund and Silent Auction

August 2015

Hello CFDD Members,

We hope your chapter will consider making a contribution to the **CFDD Scholarship Fund** at the 2015 **CFDD National Conference** to be held in Portland, OR, October 14-16, 2015. CFDD is all about education and when we are able to award scholarships to our members for attendance to conferences, classes and certification, we all win. Contributions are a vital part of this process. We ask that you think about all the people who have been awarded scholarships in the past and the 54 scholarships that were just awarded at Credit Congress in St. Louis totaling \$24,350.

Chapter contributions and the **CFDD Silent Auction** are the means by which we accomplish this for the members. **Checks may be presented by your Chapter President or Area Director at the CFDD National Conference in October.** In an effort to make sure nothing gets missed, we ask that you also **email me the amounts of the contributions** and who will be making the donation. We will keep a running total and will acknowledge each chapter for its contribution.

We also will be having a Silent Auction at the conference and are looking for donated items for the auction. These can come from the chapters or from individual members. The following is a list of suggested items for the auction.

1. Gift cards (\$25 or more)
2. Electronics, small appliances
3. Gift baskets, home decorating items, artwork
4. Purses, jewelry, wine, cookbooks, items unique to your area
5. Small hand tools
6. Car accessories

A copy of the Silent Auction donation form is on page 6. Please make your membership aware of these needs. The proceeds from the chapter donations and the Silent Auction all go toward the Scholarship Fund and in turn back to the members through scholarships.

If you have any questions, you may reach me by [email](#) or at 972-725-1192.

Sincerely,

Kim Lancaster, CCE, CICP
CFDD National Vice Chairman Education,
Programs and Chairman-Elect



CFDD National Silent Auction
CFDD National Conference
October 14-16 • Portland, OR

We are seeking donations from CFDD members, member companies and chapters for the **CFDD-National Silent Auction**. All proceeds go to our **Scholarship Fund**—which, in turn, benefits **YOU!**

All donations are tax deductible.

Some items of interest are, but are not limited to:

- Gift cards (starting at \$25) to national chain restaurants and stores
- Electronics
- Jewelry
- Purses
- Small hand tools
- Car accessories

We ask that all donations be received by **September 1, 2015**. If you have questions, please contact:
Charlene Gothard, CBF at cmgothard@landolakes.com and/or
Kim Lancaster, CCE, CICP at kim.lancaster@rexelholdingsusa.com or 972-725-1192.

We look forward to receiving your donation and seeing you in Portland in October!

Silent Auction Donation Form

Donor's Name _____

Title _____

Company _____

Address _____

Phone Number _____

E-mail Address _____

CFDD Chapter _____

Item Description & Retail Value
[Minimum value of \$25 please] _____

Please send all donations to:

Charlene Gothard, CBF
Senior Credit Representative
Purina Animal Nutrition, LLC
15840 North Simmons Road
Portland, OR 97203

Please mark all donations for CFDD National Conference to ensure proper storage.

Top Reasons to Attend the NACM Western Region and CFDD National Conference

Portland is known as the City of Roses. We have some beautiful “roses” available to bid on as part of the CFDD Silent Auction. Bid Often and Bid High!

Presidents’/Vice Presidents’ meeting. This is a wonderful way to get to know your CFDD National Board and to have an exchange of ideas between chapter leadership. If you are a president, vice president or representative in attendance, please come to this all-important meeting. This is your organization, so let’s work together to accomplish more.

International Credit Day. The NACM Western Region is providing a program for those who may need credit education within the international community. This is a wonderful “extra” day of knowledge for a small additional fee. Think about coming in early and participating in this event.

Membership challenge. The 2014-2015 CFDD membership challenge has ended and the numbers are in. Find out which chapter added the most new members to its chapter. A financial award awaits the winners!

Let them eat cake! Attend the CFDD Dessert Auction on the final night of the conference and enjoy bidding against your CFDD and NACM family members for the best dessert possible. All proceeds go to the CFDD National Scholarship Fund.

Click Click Click! Have fun taking pictures in the photo booth during the dinner and dessert auction. Dress up by adding hats, glasses, feathers and more. Don’t miss your chance to get a great souvenir photo.

Extra Extra! Need a wine tour? This is being offered as an additional purchase for those who are staying the weekend in Portland. Sign up to spend some time learning about wine. Transportation and dinner is included. Check your registration form and website for details.

All are invited. Please attend your CFDD National Conference in October. We would like it to be the very best ever. Only YOU can make the difference.

I hope to see each of you there!

Submitted by Kim Lancaster, CCE, CICP, CFDD National Vice Chairman, Education, Programs and Chairman-Elect and Area Credit Manager, Rexel Holdings, Inc.

CFDD NATIONAL’S EDUCATIONAL PROGRAMS

Now available, CFDD National’s Programs free of charge! Program topics include:

- Antitrust and You
- Ethics—It’s a Matter of Choice
- Business Etiquette
- Mediation—An Alternative to Dispute Resolution
- Selling Marginal Accounts—Are the Rewards Worth the Risk?

These programs can be conveniently downloaded from the [CFDD Members Only](#) Area of the CFDD National website. Please check out these timely resources!

As CFDD chapters elect new boards of directors, please keep CFDD National in the loop!

Please send an email to National (cfdd@nacm.org) with contact information for all newly installed board members. We appreciate your help in this matter.

Reminder to All CFDD Chapters

Bad Check Laws

Each state has laws with respect to the issuing of checks that are returned unpaid. While statutes differ in details, they are essentially the same in principle: a maker who issues and the holder who negotiates a check knowing that there are insufficient funds or credit to honor it are guilty of a crime and may be subject to civil or criminal penalties.

Note: A state-by-state summary of the statutes pertaining to bad checks including civil and criminal penalties appears in the Manual of *Credit and Commercial Laws, Volume II, Chapter 7*. Where the time period establishing *prima facie* evidence of fraudulent intent differs, it is noted. Also listed is the maximum service charge amount (or fee) allowable by law, where such service charge is permitted.

INTENT TO DEFRAUD AND KNOWLEDGE OF INSUFFICIENT FUNDS AS NECESSARY ELEMENTS

Generally, NSF (without sufficient funds) check laws expressly provide that intent to defraud is a necessary element of the offense. The words “with intent to defraud” as used in the statutes do not mean that the payee need have been actually defrauded. The intention to defraud is sufficient. The majority of the statutes provide in effect that failure to pay the check, draft or order within a specified number of days after demand is presumptive evidence of intent to defraud and of knowledge of insufficient funds in, or credit with, the bank for the payment of the same. In some states, the time period establishing *prima facie* evidence of fraudulent intent is different than the grace period allowed to pay a debt before prosecution can be sought. As well, not all states presume intent. Although it can be proved by circumstantial evidence, the presumption of law is insufficient. The drawer must also have knowledge of insufficient funds or credit. In those states where an intent to defraud is presumed, knowledge of insufficient funds, which is a necessary element in proving the intent to defraud, is also presumed.

Some state statutes also provide that a holder who is aware, through any means, that a drawer has insufficient funds to pay a check is estopped from pursuing available remedies if the holder attempts to negotiate the check.

TIME WITHIN WHICH CHECK MAY BE MADE GOOD

The person who makes, draws, utters or delivers a bad check is given a period of time specified in the statute within which to “make good” after receiving a certain prescribed notice that the check has been dishonored. Under some state statutes, prosecution cannot be commenced until the expiration of the time allowed; other states provide that prosecution is dismissed if the check is made good within the time specified; and in other states, if the check is made good within the time specified, the presumption that the check was given with fraudulent intent and with knowledge of insufficient funds does not attach.

Many times, after a dishonored check has been issued, the maker files for protection under one of the chapters of the Bankruptcy Code. The filing of a bankruptcy petition invokes the automatic stay which enjoins any civil action to attempt to collect a debt or to recover property from the debtor. The bankruptcy filing will stop all civil efforts to collect on a bad check. With respect to criminal prosecutions, this is a much more complicated area. Section 362(b) of the Bankruptcy Code lists the areas where the automatic stay does not apply, including criminal prosecutions.

CHECKS IN PAYMENT OF PREEXISTING DEBTS

Bank checks are not payment in most cases until they are paid; giving a check for payment on a note or open account does not extinguish the debt. Generally, therefore, the giving of a bad check to pay a note or open account does not fall within the bad check law. The account creditor or note holder can simply sue on the note. What this means is that most bad check laws clearly provide for civil or criminal prosecution for a check given on a COD purchase. However, if the check is in payment of an antecedent debt, such as one on an open account, the individual laws must be reviewed to determine the applicability, if any, to the check being held.

STOPPING PAYMENT ON CHECKS

The bad check laws do not apply where an individual stops payment on a check issued on an account with sufficient funds, provided that the reason for stopping payment is legitimate. However, if it can be proved that the issuer gave the check, intending at the time to stop the check, the bad check law may apply as it can then be shown there was an intent to defraud.

POSTDATED CHECKS

The Uniform Commercial Code, Section 3-104(f), defines a check as “a draft, other than a documentary draft, payable on demand and drawn on a bank ...” A postdated check, since it is not payable on demand, does not satisfy this definition. Conse-

CFDD NEWSLETTERS

Did you know that you can access not only the National CFDD newsletters, but also other chapter newsletters from the National CFDD website? Need a fresh topic for an upcoming meeting or a new fundraiser idea? Is your chapter ready to launch its newsletter, but needs some direction? Check out what other chapters are doing by logging onto the [CFDD Members Only Area](#) and clicking on Chapter Newsletters from the menu on the right.

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quently, it has generally been held by most states that the giving of a postdated check does not constitute a present fraud nor is it within the scope of the “bad check laws.”

TO WHOM STATUTES APPLY

The various statutes usually apply to “any person who shall make, or draw, or utter or deliver any check, etc.,” and therefore apply not only to the maker, but to anyone who passes a bad check with fraudulent intent, even though the check be that of a third person. It may also apply to one who, with intent to defraud, endorses and transfers a worthless check. However, most state statutes specifically refer to the drawer or utterer of the check.

HOW TO TAKE ADVANTAGE OF THE STATUTE

If a check is returned, a creditor must give a written notice to the maker and a demand that the check be made good within the number of days specified in the statute. Notice is required in all states, unless the *situs* of the drawee is not within the state or the drawer is not a resident of the state where the check is negotiated. Some states allow for personal or oral notice to the drawer. Where available, notice should be served personally upon the maker of the check. If the check is not made good after demand, refer the matter to the prosecuting attorney in the district by forwarding a legible copy of the NSF check (keep the original in a safe place) together with any demand letter(s) and other correspondence relating to the check, especially any affidavits of mailing notice. Also include the names and addresses of any necessary witnesses.

CIVIL PENALTIES

The credit grantor should resort to its available civil remedies in order to recover payment and costs of bad checks. Virtually all states require civil remedies be pursued prior to the institution of a criminal complaint. Normally, only when the drawer has a prior bad check conviction may a creditor bypass pursuing civil remedies.

Credit grantors must also note that statutes, which govern the civil remedies available to credit grantors, may overlap among two or three different sets of statutes within the state. Therefore, in seeking its remedy, the credit grantor must seek advice as to the pertinent statute in effect at a particular time.

CRIMINAL PENALTIES

First and foremost, the filing of a criminal complaint and proceeding with criminal prosecution will not necessarily guarantee payment. Additionally, most states have very strict laws as to utilization of criminal proceedings for civil purposes.

The prudent credit professional should utilize the criminal statutes only where the true intent of its utilization is punishment as opposed to utilizing the system to try to collect on the bad check. In fact, some states contain statutes that will punish the creditor who attempts to utilize criminal prosecution as a means to collect the debt on the bad check. In addition to many of the same elements listed for civil penalties, the criminal statutes require additional elements before the case can be sustained. It must be remembered that under the

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On the Way UP

CHAPTER	MEMBER	NEW COMPANY	TITLE
Dallas/Ft. Worth	Trina Underwood, CBF Phillip Woodruff, CBA	Ferguson Enterprises US Concrete	Credit Manager Credit Manager
Omaha/Lincoln	Mary Moore	Carlson Systems	Director of Credit Services
Phoenix	Ellen Wodiuk, CCE, ICCE	The Law Office of Mark A. Kirkorsky, PC	Client Services Specialist

Thank you to all my dear friends for the phone calls, text messages, flowers, cards, etc., in regards to the passing of my Mom. The friendships formed in this organization are truly a blessing.

--Mary Moore

current form of jurisprudence in the United States, in a criminal action, the burden of proof is upon the state and a defendant is presumed to be innocent unless proven guilty beyond a reasonable doubt. This burden of proof is substantially higher than that necessary to be able to prevail in a civil case. Strict compliance with the laws is necessary. The elements that are necessary in addition to the civil elements are the following:

Necessity of Damage

A number of states have held that it is not necessary that the payee be actually defrauded as a result of the bad check, but that the intent to defraud is sufficient. This means that even if one ultimately receives payment for the dishonored check, the intent to issue the worthless check was there at the beginning and the criminal action may be pursued. The corollary to this principle is that once a complaint is initiated to begin a criminal proceeding, it may not necessarily be able to be withdrawn just because the check is made good. The creditor must also realize that courts, both criminal and civil, will want to ascertain actual damages in order to assess punishment. If payment has been made and there is no remaining damage, the court will consider this in its final decision. Nevertheless, note carefully those state statutes that provide where payment on a bad check is received, the element of intent is negated.

Sufficiency of Notice of Nonpayment

Most of the statutes provide that the failure to make the check good within a certain number of days after receipt of written notice of nonpayment shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds to cover the check. As with the civil statutes, many states require the written notice to the issuer of the check before any criminal action may be taken. The notice needs to be sent by mail in the method prescribed by statute. The letter or notice should identify the check by reference to the names of the maker and the payee, the amount, the date of check and the number of the check. The notice or letter should also demand payment for the check since the purpose is to give the maker an opportunity to make good on the transaction. Reference to the civil and/or criminal statute may help further in clearly identifying the purpose of the notice and is often required by the statute.

Rules of Evidence

In most states, the attempt to defraud and the knowledge of insufficient funds are presumed by the laws. The rationale is that one is charged with knowledge as to the sufficiency of funds in an account prior to the issuance of a check, and that the issuance of a check where there are insufficient funds to cover it (with or without knowledge) further presumes the intent necessary for a criminal act.

Since the criminal laws vary differently from state to state, it is important to review each state's evidence rules before pursuing a course to proceed with a criminal complaint. Also note that some states provide that if the payee of the check knows or has reason to know that the check may not be good when it was issued (the maker asks the payee to hold the check for several days), the court may not find the requisite intent, and the burden of proof will not have been met.

When contemplating the type of action to be brought, the credit professional should compare the elements of the civil and criminal penalties contained in the individual state statutes. Keep in mind that the mere prosecution or even conviction in a criminal action will not necessarily provide repayment or restitution. Yet, there is a message sent to the business community in a particular area—a negative message—when a particular business entity or credit department will not do anything when confronted with a clear case of criminal intent with respect to bad checks.

Excerpted from the NACM Manual of Credit and Commercial Laws, Volume II, Commercial and Consumer Credit Topics, Chapter 7, Bad Check Laws. For the full text of this chapter or information on contracts, letters of credit, secured transactions, credit applications, negotiable instruments, bankruptcy, antitrust, escheatment, SOX and many other relevant topics, please consult the Manual. The current edition of all four volumes of the Manual of Credit and Commercial Laws is available at the NACM [Bookstore](#).

AWARDS & ACHIEVEMENTS

CHAPTER	MEMBER	COMPANY	AWARD/ACHIEVEMENTS
Charlotte	Reid C. Montross	W.W. Grainger, Inc.	CBF
Minneapolis/St. Paul	Toni J. Nuernberg, CAE, CGA	NACM North Central	CBF
Wichita	Christopher McDaniel	Excel Industries, Inc.	CBA

CHECK OUT NACM'S LINEUP OF PROGRAMS AND EVENTS

- Sep 2 **NACM Webinar:** Negotiating Your Walmart Supplier Agreement
- Sep 14 **NACM Webinar:** 5 Ways to Get the Most from Automation with OCR
- Sept 15 **Leadership Webinar:** Driving Accountability
- Sep 17 **FCIB Webinar:** Funding of A/R Portfolios—Securitization
- Sep 21 **NACM Webinar:** Credit Metrics 101
- Sep 22 **FCIB Webinar:** Introduction to Supply Chain Finance
- Sep 23 **NACM Webinar:** How to Find, Hire and Manage a Lawyer: 10 Questions You Need to Ask
- Sep 24 **FCIB Webinar:** Funding of A/R Portfolios—Asset Backed Lending
- Sep 29 **FCIB Webinar:** Legal Obstacles to International Collections
- Sep 30 **FCIB Webinar:** Funding of A/R Portfolios—Factoring
- Oct 1 **FCIB Webinar:** Funding of A/R Portfolios—Forfeiting
- Oct 5 **NACM Webinar:** Essential Skills for Credit Leadership
- Oct 7 **NACM Teleconference:** Do I REALLY Need to Read This? Bankruptcy Filings Every Credit Manager Should Understand
- Oct 14 **NACM Webinar:** Loose Lips Sink Ships: Customer Name Mistakes Sink Collections
- Oct 21 **NACM Webinar:** How to Create an Order to Cash Process
- Oct 22 **NACM/FCIB Leadership Webinar:** Driving Change & Executing Plan
- Oct 27 **FCIB Webinar:** BPO (Bank Payment Obligation)

Monthly Credit Survey

You are invited to participate in the monthly Credit Managers' Index (CMI) survey of U.S. credit and collection professionals. Each time you take the survey, you receive 0.1 point toward your [NACM Career Roadmap](#). Contribute to the CMI and have your experience count.

The results from the survey are processed and presented each month in NACM's *eNews*, *Business Credit* magazine and at www.nacm.org. Since its inception, the CMI has been a startlingly accurate economic predictor, most notably proving its worth during the recession.

The survey asks participants to rate whether factors in their monthly business cycle—such as sales, new credit applications, accounts placed for collections, dollar amount beyond terms—are higher than, lower than or the same as the previous month. The results reflect the entire cycle of commercial business transactions, providing an accurate, predictive benchmarking tool.

All credit and collections professionals are invited to take the survey each month during the timeframes listed below. NACM membership is not required.

Read more about the CMI [here](#).

Upcoming Survey Dates

CMI Timeline	Survey Opens	Survey Closes
September	Mon, Sep 21	Fri, Sep 25
October	Mon, Oct 19	Fri, Oct 23
November	Mon, Nov 16	Fri, Nov 21 (noon)

CFDD MISSION STATEMENT

The mission of the NACM Credit and Financial Development Division is to develop tomorrow's business leaders through core offerings.

CFDD VISION STATEMENT

To be a leading provider of professional development opportunities through learning, coaching, networking and individual enrichment.

CFDD Logo Items



Searching for that perfect gift that combines practicality, value and pride? Look no further than CFDD's extensive selection of logo items! From mouse pads to flashlights, CFDD logo items can satisfy even the most discerning recipient. They also make great gifts for speakers and special guests. Don't delay! Browse the [CFDD logo item web pages](#), part of the online NACM Bookstore, and purchase merchandise that reflects your investment in the CFDD professional credit community!

CFDD logo items currently available:

Acrylic Desk Tray (\$10)

Aluminum Card Case (\$8)

Business Card Album (\$15)

Can Holder (\$2)

Cork Mouse Pad (\$5)

Flashlight (\$15)

Luggage Grip (\$2)

Mesh Bag (\$10)

Robotic Book Light (\$5)

Wired E-Gadget Portfolio -
Black Leather (\$30)

