

Legal Counsel for Churches

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Churches Have Duty to Inspect Bank Statements

If your church has a bank account, you likely receive a monthly statement. These statements provide a list of transactions, your closing balance and other activities that have occurred during the month.

Bank statements are not infallible. Sometimes mistakes occur. In some instances, the mistake is caused by the bank's negligence. For other occasions, errors happen due to a church official's fault. In a few cases, funds may be misappropriated by an insider. For these reasons, it is sensible to inspect the bank statements and make sure the balance is as it should.

It is important that a church official reviews the bank statement carefully every month. An important reason for a monthly inspection is stated in a North Carolina law.

North Carolina General Statute 25-4-406 places a duty on a bank customer to discover and report unauthorized transactions. The law states under subsection (c) that "the customer must exercise reasonable promptness in examining the statement or the items to determine whether any payment was not authorized...". For the purposes of this article, I will focus on the reasonable promptness element of the duty.



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!!! SPECIAL ALERT !!!

Churches Could Be Target of Scams

One might think that churches would not be the mark of con-artists, swindlers and tricksters. The fact is churches are vulnerable to the same scams that plague secular organizations and individuals. Here is a common scheme that often catches victims off guard.

In this scenario, a potential donor offers to make a substantial contribution to your ministry. The donor only has a cashier's check. The donor offers to deposit the check in your offering basket in return for the cash difference.

In the church's excitement to receive a large donation, no one questions the transaction. After all, the donor has an official-looking cashier's check. The finance ministry or trustees gathers up the cash from the offering and give the donor the balance. Days later, the church learns the check is counterfeit.

The scam can happen in a number of ways. A con-artist could appear to an usher holding an offering basket during church service. The church office could get a letter from a purported donor. The church web site might receive an email from an imaginary philanthropist. The donor could be a stranger or a long-time member. In some instances, the innocent member may not know the check is a fake.

There are many victims that fall prey to these kinds of tricks. The reasons vary. First, these cashier's checks are authentic-looking. With today's desktop software and access to a color printer, a scam artist can create a convincing fake check. Secondly, these schemes come with different stories. The stories are creative and are designed to distract the victim's suspicion.

To protect your church from rip-offs, you should consider several measures. The church should have a set of procedures in place for such unusual transactions. The procedures should ensure the church knows the integrity of the donor. In addition,

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Maurice R. Smith
Maurice R. Smith | Attorney & Counselor at Law

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Post Office Box 27461, Raleigh, North Carolina 27611 919.362.0744 (voice) 888-321.9047 (fax) maurice.smith@msmithlaw.us
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Bank Statement *continued*

Generally, a church should reconcile its bank statements every month. If this monthly routine is followed, it is hard to believe that any court would not find this to be reasonable and prompt. However, if a church waits months to balance its checkbook, it becomes more difficult to show that the practice met the reasonable promptness standard in the statute.

The importance of meeting the reasonable promptness standard is to preserve a right to assert a claim against the bank for unauthorized transactions. If it is discovered that a withdrawal was not authorized, a forgery occurred or the bank made a mistake, the church has a right to demand the bank correct the error. This right is contingent on the basis that the discovery is made with reasonable promptness. If the bank shows that a church failed in its duty, the church is precluded from asserting a claim against the bank.

The law includes a one-year statute of limitations regardless of whether the church or the bank is at fault. The law provides that if the unauthorized transaction is not discovered in one year after the statement, the church may lose its right to prevail on a claim against the bank.

To protect your church's right to recover from a bank, put a process in place for inspecting, balancing and reconciling bank statements. Be sure to make your treasurer or financial officials aware of this responsibility.

Your church's duty to inspect your bank statements with reasonable promptness can help preserve an important right. If you have not been inspecting your bank statements, start today by going back at least one year to check for inaccuracies before time runs out. ■

Scams *continued*

church officials should have the ability to detect fake documents. If there is doubt about the genuineness of a check, the check could be taken to the church's financial institution for inspection. Nothing of value should be exchanged with the donor until the church is satisfied that the instrument is legal.

This is one kind of swindle the church could face. The possibilities are endless for the number of ways fraud can be committed. Have your church officials meet with your lawyer, insurance agent or other risk management professionals to build defenses against this and other scams. ■



What Do Your Vendors Really Think of You?

As church leaders, you have a duty to the flock to be on the watch for wolves in sheep's clothing. Not all vendors treat you fairly just because you are a church. Some companies might even seek to take advantage of your benevolent nature.

When you are negotiating a business contract or settling on terms with a vendor, don't let your church be led astray. We can help you make the right decisions.

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