

5 Ways to Respond to a Presentment or Draft

1) **HONOR - ACCEPTANCE** → Accept and carry out performance of the presentment
example- the IRS says "You owe \$20,000", so you pay it

2) **HONOR - CONDITIONAL ACCEPTANCE** → Accept upon party meeting conditions
conditionally accept and re-draft

example- with the CA4V conditional acceptance and the negative averment, which says "Sure, I'll pay you, upon proof of claim!"

3) **REFUSAL FOR CAUSE, WITHOUT DISHONOR**

No Dishonor. Erroneous claim refused for cause. No liability evidenced. [Pursuant to UCC 3-501 and Calif. Comm. Code 3501]

4) **DISHONOR - REFUSAL** → Argue the issues

example- who are you, what's your authority, I don't owe that much, or whatever issue

5) **DISHONOR - REFUSAL** → Default by remaining silent

Using conditional acceptance you can honor the presentment upon conditions that forces the other party to **DISHONOR** you. This turns the table on them. Then by using the Notary Protest on their dishonor you can perfect the dishonor. These helps you to achieve the agreement of the parties before coming into the court, so the substance is not at issue any longer, and the court is reduced to a ministerial duty - based on the evidence before it, which is that the only claim on the table - the claim of the notary who tried to get acceptance on the draft, and certifies that the dishonor of the opponent was deliberate!

Now you're before the court with your notary and his evidence. The judge has an administrative, not judicial, issue. This means it is strictly procedural, where **NO DISCRETION IS ALLOWED**, where there is no immunity. If you go conditional accept your opponent offer, giving him the opportunity to produce his claim and he doesn't do it, where is the controversy? Substance issue is over. Down and out! Now the judge gets to rule administratively, magisterially where there is no immunity.

UCC § 3-501. PRESENTMENT.

- (a) **'Presentment'** means a demand made by or on behalf of a person entitled to enforce an instrument (i) to pay the instrument made to the drawee or a party obliged to pay the instrument or, in the case of a note or accepted draft payable at a bank, to the bank, or (ii) to accept a draft made to the drawee.
- (b) **The following rules are subject to Article 4, agreement of the parties, and clearinghouse rules and the like:**

- (1) Presentment may be made at the place of payment of the instrument and must be made at the place of payment if the instrument is payable at a bank in the United States; may be made by any commercially reasonable means, including an oral, written, or electronic communication; is effective when the demand for payment or acceptance is received by the person to whom presentment is made; and is effective if made to any one of two or more makers, acceptors, drawees, or other payors.

- (2) Upon demand of the person to whom presentment is made, the person

making presentment must **(1) exhibit the instrument, (ii) give reasonable identification and, if presentment is made on**

behalf of another person, reasonable evidence of

authority to do so, and (iii) sign a receipt on the instrument for any payment made or surrender the instrument if full payment is made.

- (3) Without dishonoring the instrument, the party to whom presentment is made may (i) return the instrument for lack of a necessary indorsement, or (ii) refuse payment or acceptance for failure of the presentment to comply with the terms of the instrument, an agreement of the parties, or other applicable law or rule.

- (4) The party to whom presentment is made may treat presentment as occurring on the next business day after the day of presentment if the party to whom presentment is made has established a cut-off hour not earlier than 2 p.m. for the receipt and processing of instruments presented for payment or acceptance and presentment is made after the cut-off hour.

Conditional Acceptance (*sometimes called Battle of Forms*)

UCC § 2-207. Additional Terms in Acceptance or Confirmation.

(1) A definite and seasonable expression of acceptance or a written confirmation which is sent within a reasonable time operates as an acceptance even though it states terms additional to or different from those offered or agreed upon, unless acceptance is expressly made conditional on assent to the additional or different terms.

(2) The additional terms are to be construed as proposals for addition to the contract. Between merchants such terms become part of the contract unless:

- (a) the offer expressly limits acceptance to the terms of the offer;
- (b) they materially alter it; or
- (c) notification of objection to them has already been given or is given within a reasonable time after notice of them is received.

(3) Conduct by both parties which recognizes the existence of a contract is sufficient to establish a contract for sale although the writings of the parties do not otherwise establish a contract. In such case the terms of the particular contract consist of those terms on which, the writings of the parties agree, together with any supplementary terms incorporated under any other provisions of this Act.

ALTERNATIVE RESPOND TO GOVERNMENT using these steps in your reply1-RESPOND

2- ACCUSE

3- DENY

4- STATE YOUR INTENT

5- MAKE YOUR DETERMINATION

6- MAKE YOUR DEMAND

7- STATE YOUR AUTHORITY

8- SET A TIME LIMIT

9- CHANGE THE PRESUMPTION

10- NOTIFY THE AGENT'S BOSSES

GENERAL GOVERNMENT RESPONSE LETTER

The following letter can be adapted to almost any government inquiry. It is reprinted with permission from *AntiShyster*, P0 Box 540786, Dallas, TX 75354-0786, or call (214) 559- 7957 - annual subscription \$25. The importance of the letter is its structure and the strategy it reveals.

One Patriot Plaza
Rochester, Indiana 46975

August 17, 1990

Agent Iluv Toripuoff - Examiner
Internal Revenue Service
666 Fraudhaven Drive
Indianapolis, Indiana 46244

Dear Examiner Toripuoff

[RESPOND] I am in receipt of a form letter 904(DO), dated August 5, 1990, that carries your stamped signature and which claims that you have been assigned to examine my "federal tax returns for the years stated above" and that you have set an appointment date of August 23, 1990 for me to come to your office along with a literal grocery list of personal documents.

[ACCUSE] Mr. Toripuoff, you are in error and proceeding on a false assumption if you believe that I have some obligation to attend any meeting that you scheduled, without first confirming that I had any obligation, to meet with you and confirm whether any date you set for an appointment was convenient for me.

[DENY] I am hereby giving **NOTICE UPON YOU** of those errors and also declaring my objection to any such presumed claim by you or anyone else in your Service. I deny that I have any obligation or requirement to appear and produce for your examination, any personal papers or records, **[STATE YOUR INTENT]** I want to make it clear that it is my intention to obey all laws that legitimately impose a requirement or obligation upon me. However, I have no desire to volunteer where no obligation exists, especially when the waiver of my rights is involved. I am relying on what the Supreme Court held long ago: "An individual may be under no obligation to do a particular thing, and his failure to act creates no liability; but if he voluntarily attempts to act and do a particular thing, he comes under an implied obligation in respect to the manner in which he does it." Guardian T&D Co. v. Fisher (1906) 26 S.Ct. 186,188.

[MAKE YOUR DETERMINATION] Therefore, I have determined that I am not one of your subjects for whom you can set a meeting without first requesting my permission. Neither am I one to whom you can demand that I produce personal papers for your review or that I have any obligation to submit those papers for an examination by you for any purpose.

[MAKE YOUR DEMAND] If you agree with my determinations, I make timely demand that you notify me of the actions you have taken to correct your error. If you disagree with my determination I will expect you to document your position and authority with at least the following documents:

- 1) All documents on which you base your claim that I have any obligation, to you or your Service or the United States and that I am the one who is required to produce books and records for your examination.
- 2) Copies of all documents that identify how I came within the purview of the statutes which you claim obligate me to produce personal documents for your examination.

3) All documents of determination that indicate I am one who is liable or subject to any statute that you or your Service claim, to have authority to enforce.

4) Copies of all documents that identify the facts on which those determinations were made.

5) Copies of all statutes on which those facts were applied to make any of the determinations that I am one who is liable or subject.

[Item 6 helps establish future due process claims and defenses]

6) Copies of the Notices sent or served upon me prior to making those determinations.

7) Copies of your delegation of authority to inquire into my personal affairs or make any demand upon me, and the delegations of authority of those who made the above determinations that I am liable or subject to those determinations.

8) Copies of your document of appointment to the position which you now hold and copies of the documents that identify by name title, position, G.S.#, and office, each party who participated in any aspect of the above determinations.

9) The document that describes the procedural format for expungement of alleged determinations, improperly or unlawfully made within you Service.

[STATE YOUR AUTHORITY] My authority for making this demand for verification of your authority has been well established as follows: "Whatever the form in which the Government functions, anyone entering into an arrangement with the Government takes the risk of having accurately ascertained that he who purports to act for the Government stays within the bounds of his authority..., and this is so even though, as here, the agent himself may have been unaware of the limitations 'upon his authority.'" Federal Crop Insurance Corporation v. Merrill, 332 U.S. 380 at 384 (1947).

[SET A TIME LIMIT] I will expect your response as to my demand for the correction of your error or the documents requested above within 30 days of your receipt of this letter. If you need additional time, please make your request in writing and it will be granted.

[CHANGE THE PRESUMPTION] If I do not hear from you, within that time, your lack of response will establish the presumption that you or your Service do not have the documentation or the authority to support your claim of any requirement or obligation upon me.

Sincerely,

Samuel. Adams

Certified Mail#_____

[NOTIFY THE AGENT'S BOSSES] Copies to: Agent Toripuoff; IRS District Director..., IRS Commissioner, Secretary of the Treasury; U.S. Congressman; U.S. Senator.

***** end of Alternate Response method *****

House Joint Resolution (HJR) 192 of June 5, 1933 – Not required to pay debt with substance.

What HJR- 192 did was, remove the liability of an obligor (someone obligated to pay a debt) by making it against Public Policy to pay debts with debt. **All that needs to be done now is discharge the debt with an appropriate credit "dollar for dollar," or exchange the "bill for the bond" or the "past liability for the future liability," thus passing over the present liability of the "Note."** The "Note" is the promise to deliver the offer. The one problem the industrial society has is there no money to even credit the account with and because of that we (the creators of the industrial products) are the credit that the industrial society needs to adjust the ledger. They need our acknowledgment of having received the charge from them to be able to discharge their duty, just like electrical currency otherwise, they have an aging accounts receivable that they cannot close without our endorsement as to the benefits that were provided. As the operator, they need to charge us so we can ground/charge-back the account thus paying the tax. Debt must be "discharged dollar for dollar".