

How to do a Proper Refusal for Cause

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This is quite the complex process, simple though it is, simply because one needs to have irrefutable proof that any presentment has been properly refused within the timeframe permitted for Refusal for Cause (aka R4C) – generally within 72 hours.

The law behind the Refusal for Cause comes from our right to refuse to contract with whomever we do not wish to contract with. This principle is addressed in the U.C.C. (Uniform Commercial Code) §2-207. It states the following:

“§ 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.

Please note specifically section (c) above, which states, “Notification of objection to them has already been given or is given within a reasonable time after notice of them is received.” This is the basis of the Refusal for Cause process. The accepted time frame is generally 72 hours or 3 days.

Each and every state has added the U.C.C. to their statutes, so you will also need to do a search of your state's statutes to ascertain the corresponding statute for your state. For instance, in the state of Oregon, it is labeled O.R.S. (Oregon Revised Statute) 72.207. See, they even kept the numbers the same, except for that it is now a part of Chapter 72.

When we receive a presentment from anyone, we have the right to refuse to contract with them. This is based on the fact that they are intruding or appealing to us on our own territory, which gives us the right to refuse. This is not the case if we go to someone else's home or place of business and contract with them there. This only applies if we are contacted while we are on our own territory. This includes service of process by process servers (i.e. lawsuits), by the postal service (i.e. suits delivered by mail, bills, debt collectors, notices, fines, and etc.), or by officers of the law while we are driving our vehicles on the roads. The last item is because we have the constitutional right to travel, and they are stopping us on our territory – our vehicle.

When you determine you want to refuse any presentment for cause, you will need to write across the face of it (and also on all pages) in bold red letters "Refusal for Cause." You do not need to actually state the cause, however.

Take a quick trip to the post office and pick up a few red Registered Mail stickers. You will need one for each Refusal for Cause that you are mailing back to the Presenter.

Next write up a cover letter that goes with the item you are Refusing for Cause. This gets sent back to the Presenter (whoever it was who mailed you the Presentment). Make sure you put the date on it and identify yourself as well (standard letter format). The body of the letter should have words to the effect of, "I am returning your Presentment marked Refusal for Cause in a timely manner in accordance with U.C.C. 2-207 (*or the corresponding statute for your state*). Please cease and desist all further communication with me in regards to this matter." ALSO (very important!) write or type in the Registered Mail (RA) number from the red registered mail sticker opposite the name and address of the Presenter. (This is the sticker that you will have hopefully gotten from the post office in advance; try to keep some on hand at home for future presentments). Sign the original cover letter in blue ink.

You will next need to put the original cover letter and the red-marked original presentment in your copy machine. Make one copy of the entire stack. Staple the originals together, and staple the copies together. Get the envelope ready with the Presenter's name and address on it; take both the original R4C and the copy with you and head on over to the post office. Don't forget the envelope!

Now, this is where things get interesting. You will need the postal clerk's help in proving beyond the shadow of a doubt that you refused in a timely manner. Keeping this in mind, you will need to send the original presentment back using registered mail. This is because by use of registered mail, the contents are guaranteed. Certified mail only guarantees the envelope, not its contents... Registered mail is much more expensive, but

worth the peace of mind in knowing that the process is irrefutable in case it needs to be produced in court at a future time.

Once you get to the counter, show the postal clerk both the original and the copy of the mailing. Ask them to review that the RA number you have placed on your cover sheet is the same as appears on the sticker that will be affixed to the outside of the envelope. Once they review and verify that the number is correct, have them use their round-stamp close to the RA number on both the original and the copy of the cover letter. This is the disinterested 3rd party witness! It verifies that the contents went in the Registered Mailing as stated on your cover letter.

Yes, we will be using the postal clerk to help us perfect process, and they act as our disinterested 3rd party witness!

Next, ask the postal clerk for 2 (two) certificates of mailing (PS Form 3817, the current cost is \$1.05 each). Also tell the clerk that you will need a green return receipt requested card to go along with the registered mailing.

Fill out both certificates of mailing and the green return receipt card. The certificates of mailing will be affixed in a permanent way to both the original and the copy of the cover letter. The bottom right hand corner is a good spot. Before you affix these to the cover letters, put \$1.05 in stamps (not metered stickers) on each certificate of mailing (total cost \$2.10). You will affix these to both cover letters (the original and your copy) with two strips of clear packaging tape. **BEFORE** the clerk affixes the certificate of mailing to the cover letter, have him round-stamp the certificate of mailing on at least two edges (half-on, half-off) of the certificate, with the cover letter in place beneath it. After they are round-stamped (half-on, half-off), they can be affixed permanently with the packaging tape, and hope that the clerk does a fairly decent job taping it so the round-stamps line up pretty well. Do this on both the original R4C and your copy as well.

This process makes it virtually impossible for any Presenter to remove the certificate of mailing, which is irrefutable proof that you mailed it back within the three-day time-frame permitted by law. Having the round-date stamp on both the certificate of mailing and the cover letter that it is attached to (one-half of the stamp on the cover letter, the other half of the stamp on the certificate of mailing) makes it virtually impossible to remove without glaring evidence that it has been tampered with.

Additionally, your copy of the R4C, with the clerk's original round-date stamp verifying the RA number, and with the permanently affixed certificate of mailing, will be absolute proof-positive in any court of law, proving that you did Refuse for Cause in a timely manner.

The clerk will ask you to insert the contents to be mailed into the envelope, which will then be sent registered with return receipt requested. Make sure you mail the original back to the Presenter, not your copy...

Lastly, be sure to attach the green return receipt to your copy of the R4C when you get it back in the mail.

I personally know someone who had his daughter use this process to have a DUI abated! So it does work! (Of course, you should also write “without prejudice” after your signature on your driver’s license, in accordance with U.C.C. 1-308, Reservation of Rights, but this is another subject altogether).

Best of luck!

-- Siren sur La Mer, June 14, 2007...

...with many thanks to David Merrill for insight into this process!

Thank you, David!!!