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**From:** Bill Carr [mailto:benningtongr@yahoo.com]  
**Sent:** Thursday, August 26, 2010 12:30 PM  
**To:** Overdraft Comments  
**Subject:** Proposed New Guidelines on Overdraft Charges

To whom It May Concern:

I am extending comments pertaining to two issues relative to proposed issues involving the charging of overdraft charges by banks, and other financial institutions against checking accounts.

They are as follows:

1. I am totally in support of the requirement that when drafts for payment on personal, as well as business, checking accounts are applied, that the postings should always be the smallest amount first up to the largest amount of such drafts.

By requiring postings to occur in this order, should the funds in the checking account not be sufficient enough to cover all the drafts being presented for payments, then some of them should be covered according to the amount of available funds in the checking account.

All too often, banks and other financial institutions will post the largest draft presented so that overdraft charges can be applied against other drafts being presented, all in favor of the bank or financial institution.

In my mindset this is a devious business practice and should not be allowed under banking laws. I have on more than one occasion challenged the bank(s) where I have personal checking accounts in effect against this practice being applied. Usually I have not encountered a problem with the bank once they have been apprised of the situation. But, if I had not challenged them they would have applied overdraft charges, which are horrendous in scope, against the checking account.

2. There is also another practice in effect at banks, and I assume other financial institutions as well, although I can only reference by personal knowledge what is happening at my banking resources.

A customer of the bank, with a personal checking account, and who has an overdraft privilege in place; can find themselves placed in a situation whereby overdraft charges will be applied against their personal checking account, even though the customer has provided a deposit into the account, that should have been posted prior to any overdraft charge being applied against the account.

Let me explain by example.

I forwarded a deposit to my personal banking resource for \$1,000 via overnight mail using the United States Postal Service, on Thursday, August 12, 2010, with a guarantee delivery time no later than 3:00PM on Friday, the 13th.

On Saturday, August 14th, I called into my bank's available information service, and received a voice prompt that indicated that I had a certain amount of available funds in my account, which once stated indicated to me that the deposit had been posted to the checking account. Having received this message, I then proceeded to apply two direct debit charges to the account, both of which were approved via the electronic notification system my bank uses.

However, on Monday morning when I accessed my checking account utilizing the bank's online information service, I notice that two \$31.50 charges were placed against my checking account for "Uncollected Funds." And, before I had an opportunity to call the bank to investigate, two more charges of the same amount of \$31.50 each had been applied, for transactions of of less than \$5.00 each.

I proceeded to contact the bank and had been told that all four charges for uncollected funds had been applied because the deposit was not credited to my checking account until Monday, August 16th, and the debit charges had occurred over the previous two weekend days.

I protested this action, now with uncollected fund charges totally \$126.00 (\$31.50 X 4), but was told that because I had the overdraft privilege on the account the bank would cover the debit charges. I then re-engaged my protest because of the prompt message stated when accessing my account for information on Saturday, the 14th, that stated an amount which would have included the deposit made on the 13th. I told the bank representative that I felt the action was of a devious nature; telling a bank customer that they have available funds in a checking account under the premise that the customer believes its due to the deposit made even though in reality its only because of the overdraft privilege.

After a lot of anguish conversation did the bank representative say that the matter would be reviewed by a branch manager, and even after that occurred, the matter was sent up to the marketing department due to the challenge I made about my thinking the transactions taken were of a devious nature.

Later in the afternoon of Monday, the 16th, I received a call from the bank representative that all four charges for uncollected funds were being reversed against the checking account. I asked for an explanation and was told that when the bank did an internal audit trail, they found that the deposit made back on Friday the 13th, that the deposit was posted too late in the day to be recorded for that day's activity. But, the bank also acknowledge that the deposit could have been made earlier and should have been recorded for that day's activity. The reason stated was that all mail, irregardless of how it is delivered, goes through the bank's internal post office and then delivered to the applicable addressee. They acknowledged that that caused the delay on the posting thus negated the transaction and noted that the posting should have occurred early enough to be recognized for that Friday, not the following Monday.

Now, that was fine with me, but it still didn't explain why I should have received a voice prompt on Saturday, the 14th, saying the deposit was already available when in reality it was not. I was informed again that its because I had the overdraft privilege for the checking account. In so doing the technical staff at the bank realized that they had not taken this into consideration when setting up the internal posting of deposits. In other words I found a "mouse" in their internal transactional system.

Okay, I was given full credit on all uncollected funds charges, and the bank says it will review and adjust their posting procedures to avoid another such event occurring in the future. But, and this is the reason for explaining this situation to your committee for review and possible need for such a practice, what if this type of situation is occurring throughout the banking system in the United States.

That's one slew of financial institutions. What if the customers of all these banks was not as diligent as I was in reviewing their banking transactions? They might not catch such action until they receive their bank statements, and maybe not even then, if they anticipated that due to having overdraft privileges the bank was doing right by them, when in reality it was being devious in how its internal posting system to accounts is being applied.

I know that my explanation has been lengthy. I would like it to have been much shorter but then I would not have given full details on how such an event could occur. I present it here solely in the interest that such a practice should not be allowed to occur and to implement a regulation that would preclude a bank or other financial institution from practicing such type of transactions.

Thank you for your attention. I appreciate the opportunity to present my comments.

Sincerely,

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