

## 13 YOUR AFFIDAVIT TO THE NOTARY

You must create an affidavit requesting the protest by the Notary, which you present to the notary the day after the respondent has dishonored your CA/A along with all the documents and postage-prepaid envelopes for the notary to perform the protest on your behalf. You may prepare the affidavit in advance and fill in the remaining data just before you send it to the notary for protest DO NOT DELAY! The actual affidavit may be notarized by any local notary – in fact, it is best if it is **not** notarized by the notary who is actually performing the protest for you. The affidavit requesting the services of the Notary must state the facts:

- a. The County and State at the top
- b. The title “Affidavit”
- c. Your name and address
- d. Your ability to make an affidavit
- e. What was mailed to the respondent;
- f. The identity of the respondent;
- g. The mailing address of the respondent
- h. When it was mailed;
- i. Who mailed it;
- j. What type of response was received, if any.

The affidavit must also request the services of the notary to evidence the dishonor through protest. The dishonor is one of non-payment (creditor’s lack of response); NOT one of non-acceptance. If the respondent did not refuse or return your bill of exchange, he accepted it. Once he accepts it, he has an obligation to pay it or perform. Paying it includes (this is a limiting word) withdrawal of his demand (offer) OR production of the requested documentation that proves his claim. If he does neither, he has not paid or performed; he has accepted.

The wording in the statute says “for non-acceptance OR non-payment”. It is important not to give them a way to get out of paying (also performing) by claiming later that you admitted your bill of exchange was not accepted by the respondent. If your previous process has the “non-acceptance” in the Notice of Dishonor, it is not a fatal error because they would have to join issues with you to bring that claim into the process and you could correct your error. In commerce, when you make an error, you correct it or start the process over. The typical respondents in the political system are seldom able to prove their claims.

**MAKE A COPY FOR YOUR RECORDS.**

**THE ORIGINAL GOES TO THE NOTARY PERFORMING THE PROTEST.**