New Rules Increase Risk of Loss from Check Forgery: Loss Allocation Under the Revised Uniform Commercial Code

Steven B. Dow, JD, PhD
Michigan State University

Introduction

Despite the increasing use of electronic fund transfers (EFT) in recent years, checks and other paper-based systems continue to be the primary way businesses and consumers make payments. 1995 data show, with respect to the number of transactions using various payment methods, the estimated 63-65 billion check transactions each year exceed the number of transactions using all other methods combined by a factor of approximately four. Checks are used in approximately 77% of all transactions.[1]

All payment systems, whether electronic or paper-based, are susceptible to fraud and other types of wrong-doing. In the case of checks, the orders to pay contained in all checks are authenticated by signatures, making the problem of forgery central to the operation of the system. There is abundant anecdotal evidence showing that the potential risk of loss to firms is substantial. Forgery seems to be the method of choice for dishonest bookkeepers and other clerical workers, accountants, treasurers, and computer systems managers in carrying out their embezzlement schemes. Losses of $250,000 or more are common and sometimes reach into millions of dollars.[2] A 1995 study, conducted by the Board of Governors of the Federal Reserve System, estimated that banking industry losses from check fraud, which include forgery, were between $475 million and $875 million each year. Annual losses to the entire national economy were estimated to be between $10 billion and $60 billion.[3]

By the time embezzlement schemes are uncovered, wrongdoers have either absconded with or spent the fruits of their labor, leaving relatively innocent parties—banks and their customers—to bear the losses. The data on forgery losses cited shows that banks bear only a very small portion of these losses, which means that the losses to bank customers, both business and consumer, may reach nearly $60 billion each year.[4] The allocation of losses resulting from forgeries was originally governed by English common law.[5] For most of the last half century, this allocation has been governed primarily by Articles 3 and 4 of the Uniform Commercial Code (UCC).[6]

Articles 3 and 4 have recently undergone a major revision, including changes in the rules governing the allocation of losses resulting from check forgeries.[7] These changes will shift substantially more of these losses from banks to their customers, which will increase the risk of loss for these customers. The purpose of this article is to explore the substance of these recent changes in the law and explain how they will increase the risk of financial losses for firms (both large and small) and other bank

customers. The article will discuss the nature of a checking account from a legal perspective. The impact of a forgery is explained. An overview of the traditional rules governing the allocation of losses resulting from forgeries is presented. An overview and analysis of the recent changes in these rules are covered. Finally, some suggestions on how firms and other bank customers can reduce their risk of financial loss resulting from check forgeries are offered.

The Legal Perspective of a Checking Account

From a modern perspective, a checking account typically is viewed as a contract between a debtor (the bank) and a creditor (its customer).[8] The customer deposits funds with the bank, and that bank agrees to pay items (the checks) out of this account as ordered by the customer and according to the customer's instructions. A check is essentially a written order to the bank, instructing it to pay a specific sum of money to a third person or as otherwise instructed by that third person. The customer or other person such as the customer's employee, who signs the check ordering the bank to pay is referred to as the drawer. The bank to which the drawer's order is directed is referred to as the payor bank or the drawee bank. The third person, to whom the bank is ordered to pay (and who may order the bank to pay a fourth person) is the payee.

In a simple case, a drawer might draw a check to the payee, a vendor, for example, as payment for supplies or services. The vendor can obtain payment by taking the check directly to the payor bank and presenting it for payment. If the customer has adequate funds on deposit (or, if not, the bank is willing to extend credit), the bank will pay the check and charge its customer's account for this amount. It is more common, however, for a check to be presented for payment indirectly through a complex local or national check collection system. In this latter case, the check eventually will be presented to the payor bank, not by the payee (the vendor), but by another bank that is part of the collection system. Alternatively, the payee can name a new payee, such as another vendor or creditor, and transfer the check to that party as payment for goods, services, or as payment on an existing debt.

Under the terms of the checking account contract, the bank is permitted to pay items out of its customer's account only if the items are properly payable. (A properly payable item basically is one that was issued with the necessary authorizing drawer's signature(s), has all the proper endorsements, and has not been altered.)[9] A basic principle of law governing checking accounts holds that if a bank debits its customer's account to pay an item that is not properly payable, the bank is obligated to recredit that account.[10] It would then be in a position to either bear the loss itself or attempt to pass the loss on to a party other than its customer, such as the person or bank who presented the check and received payment.

The Impact of a Forgery

The basic problem of forgery loss allocation begins when a check bearing a forgery is presented to the payor bank either directly or through the check collection system.[11] If the bank fails to detect the forgery, it will most likely mistakenly pay the amount of the item to the presenting party and charge (debit) its customer's account for the amount of that item. It is universally agreed that a check bearing a forgery is not

properly payable.[11] As a general rule, when the bank pays such an item, it must recredit its customer's account.

There are two basic types of forgeries, and the manner in which the law allocates the loss that results from a forgery depends on the type of forgery a check bears.[13] The first type of forgery is a forged drawer's signature. This occurs when a check is drawn without authority from the owner of the account. The second type of forgery is a forged indorsement of the payee (either the payee originally designated on the check or a new payee named by the original payee). This article will focus on the rules that govern cases of forged drawer's signatures and their impact on the relationship between the bank and its checking account customer.[14]

The Allocation on Losses Between a Bank and Its Customer Under the Original Uniform Commercial Code

If the bank pays a check bearing a forged drawer's signature and charges its customer's account, the customer can demand that the bank recredit his or her account for the amount of the item. This demand is based on the principles that the bank may charge its customer's account only for properly payable items, and a check bearing a forged drawer's signature is not properly payable. The bank's legal obligation to recredit its customer's account, however, can be avoided if the bank can establish a defense.[15] There are several such defenses that the bank can assert in response to its customer's demand for recredit.

Under the original UCC, anyone "who by his negligence substantially contributes . . . to the making of an unauthorized signature is precluded from asserting the . . . lack of authority against . . . a drawee or other payor who pays the instrument in good faith and in accordance with the reasonable commercial standards of the drawee's or payor's business."[16] In the case of a bank customer, being "precluded from asserting" the forgery means that the customer cannot claim that the check is forged. This makes the check technically properly payable.[17] As a result, the bank's payment of the forged check out of the customer's account is deemed proper, and therefore, there is no obligation to recredit the account.

Negligence is not defined under the UCC,[18] but as interpreted by the courts, this concept includes such behavior as failure to take reasonable care in hiring and supervising employees who handle checks and failure to guard a signature stamp.[19] Notice, however, that the original UCC provides a defense to the negligent customer. The preclusion operates only in favor of a bank that paid the item "in good faith" and according to "the reasonable commercial standards" of the banking business. The effect of these limitations is to prevent the bank from asserting its customer's negligence in a case where the bank itself is negligent. In effect, the bank's negligence excuses the customer's negligence. These two principles operate in an "all or nothing" fashion. If the customer's negligence substantially contributed to the forgery of its signature, it bears the entire loss, unless the bank is also negligent, in which case the bank bears the entire loss.[20]

The UCC does not define "reasonable commercial standards" for a bank, but many courts held that the failure of a bank to examine and verify the drawer's signature on an item before it pays that item was negligence on the bank's part as a matter of law.[21] The operation of this section of the UCC greatly lessens for bank customers

the consequences of their own negligence. There is no doubt that under this rule many negligent bank customers were "saved" as a result of the bank's own negligent actions with respect to paying the customer's checks.

The second defense to a customer's demand to recredit his or her account is the so-called "bank statement duty." This imposes a duty on the bank's customer to "exercise reasonable care and promptness to examine the statement and items to discover his unauthorized signature . . . and [to] notify the bank promptly after discovery thereof."[22] If the bank can prove that the customer failed to meet this obligation, the customer is precluded from asserting the forgery against the bank under certain circumstances.[23] As in the case of negligence, this eliminates the bank's obligation to recredit its customer's account for the amount of the improper payment.[24] This is the case even if the customer was initially free from negligence with respect to the forgery of the check. Under these circumstances, the customer will bear the entire loss, unless the bank is also negligent. As with the general negligence rule discussed above, the customer's negligence in failing to examine his or her statement and report possible forgeries is excused in cases in which the bank is also negligent.[25] In such cases, the bank bears the entire loss.

Allocation of Losses Under the Revised Uniform Commercial Code

Superficially, the Revised Uniform Commercial Code (RUCC), completed in 1990 and adopted as statutory law in nearly every state, retains the basic outline of the UCC loss allocation scheme between banks and their customers, but the revisions of the original code fundamentally alter the basic loss allocation scheme and produce some significant inequities in allocating losses that result from forged drawers' signatures.[26]

Under the RUCC, the bank is still permitted to pay items out of its customer's account only when such items are "properly payable."[27] Furthermore, checks with forged drawer's signatures continue to be considered not properly payable.[28] These two principles continue to provide the basis for the customer's demand to recredit when the bank pays an item bearing its customer's forged drawer's signature.

The RUCC also retains from the original UCC the defenses that the bank may assert against its customer's demand. Under the negligence defense, if the bank can show that its customer was negligent and that negligence "substantially contributes" to the forgery of the drawer's signature, the customer will bear the loss. One fundamental change in the RUCC with respect to this defense relates to the consequences of bank negligence in this type of case. Instead of the bank's negligence completely excusing the customer's negligence, as it did under the original UCC, the RUCC establishes a comparative negligence scheme. Under the new rules, if both the bank and the customer are negligent, the loss is divided between them "according to the extent to which the failure of each to exercise ordinary care contributed to the loss."[29] Inasmuch as the bank's negligence (if there is negligence on the part of the bank) no longer completely excuses the customer's negligence under the new rule, it is now much more likely that the negligent customer will bear at least some of the loss.

The second, and perhaps more important, change under the RUCC relates to ascertaining whether the bank is negligent. The RUCC changes the definition of "ordinary care" for banks with respect to processing checks. It provides that for banks handling items for payment or collection by automated means, "reasonable commercial standards do not require the bank to examine the instrument if the failure to examine . . ." does not violate the bank's own procedures or unreasonably differ from "general banking usage."[30]

The RUCC statutory language and official comments leave some important questions about the operation of this new rule unanswered. The key question is whether a bank that does not verify signatures on a check before paying it will be considered free of negligence as a matter of law so long as that practice complies with general banking usage. Some commentators have interpreted the new rules in this way and criticized the RUCC drafters for, in effect, relieving banks of any legal duty to examine checks for forgeries before paying them out of their customers' accounts.[31] At least one appellate court has taken this position.[32] Professors James White and Robert Summers, the authors of the leading treatise on the Uniform Commercial Code, suggest that as a result of the new provisions, signatures are no longer important with respect to authorizing payment of checks.[33] They state that the RUCC:

> immunizes a bank that follows such automated procedures (and does not examine checks to see if there is a signature, or compare the signature with a specimen) from claims that it is per se guilty of negligence. In fact, we believe that 3-1-3(a)(7) goes further and endorses those acts. . . .[34]

They add that "the banks have not been eager to disclose . . . to their customers [the fact that they do not examine the customers' items before paying them]."[35]

On the other hand, at least one commentator recently argued that under the RUCC, customers may continue to argue that the bank's check verification procedures were unreasonable under the circumstances and therefore, negligent even when they comport with general banking usage.[36] Until there are more cases at the appellate level interpreting this provision, this issue will remain unsettled. However this issue ultimately is resolved, the practical significance of these changes for bank customers is clear. Under the RUCC, it is now much more difficult, if not impossible, to find a bank negligent for paying a check with a forged drawer's signature. This means that under the new comparative negligence scheme, the negligent customer will very likely bear the entire loss resulting from such forgeries.

The third change embodied in the RUCC relates to the "bank statement duty." The RUCC retains the basic duty of every customer to examine the periodic Endnotes

Endnotes

[1] Committee on Payment and Settlement of the Central Banks of the Group of Ten Countries, Bank for International Settlements (1996). *Statistics on the Payment Systems in the Group Ten Countries*, 110. Mr. Jack Walton, Manager of the Check Section, Division of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve Board, Washington, DC suggested that checks will continue to dominate all other payment systems for another generation. Telephone conversation

statement provided by the bank and promptly notify the bank in the event that the customer discovers a forgery or other unauthorized payment.[7] As under the original UCC, failure to comply with this obligation precludes the customer from demanding that its account be recredited, even in cases where the customer was initially free from negligence with respect to the forgery.[8] Under the RUCC, however, the bank's negligence in paying the check no longer completely excuses the customer's failure to comply with bank statement duty. Instead, a comparative negligence rule has been added to the code section setting out the bank statement duty. Thus, if the bank was negligent in paying the check and the customer failed to comply with the bank statement duties, they will both share the resulting losses according to the extent that their negligence contributed to the loss. Notice, however, that the new definition of "ordinary care" for banks will have a major impact on this type of case. It was already suggested that under the new definition, it is now much more difficult, if not impossible, to find a bank negligent for paying a check with a forged drawer's signature. This means that even if a customer was free from negligence with respect to the forgery of its drawer's signature on a check, the customer will very likely bear the entire loss resulting from such forgeries if he or she fails to comply with bank statement duties.[9] This makes the addition of a "comparative negligence" scheme under the RUCC a little misleading. The bank typically will be free from negligence, leaving nothing with which to compare the customer's fault in failing to comply with bank statement duties. The result, of course, will be that the entire forgery loss is left on the customer.

Recommendations and Conclusion

The changes in the loss allocation rules discussed in this article all point to the need for increased vigilance by all checking account customers. The problem is especially acute for firms, which often issue hundreds, and sometimes many thousands, of checks each month. Inasmuch as it is now unlikely that the bank will be found to be negligent, the primary task under the new loss allocation rules is for firms to avoid being found negligent. Managers can move toward this goal by exercising reasonable care in all aspects of the firm's checking account activities, particularly with respect to the following.

First, while there is some risk of theft by forgery from strangers, there is no doubt that the greater risk comes from within the firm. It is imperative that managers exercise reasonable care in both hiring and supervising all employees and officers who handle checks, checking account documents, and related information, including bookkeepers, clerks, and managers of payroll and accounts payable departments; treasurers; computer software programmers; and outside consultants or contractors who perform these functions for the firm.

Second, even with the highest levels of vigilance, the risk that an employee or officer will forge a check or checks cannot be eliminated. This brings up the second line of defense—making it difficult for a dishonest employee or officer to cover up his or her embezzlement. This can be accomplished by (1) making sure that the functions relating to issuing checks are separated from those relating to reconciling the periodic account statements that are received from the bank and that different employees carry out these separate functions, (2) promptly reconciling the statements, (3) promptly notifying the bank when a statement is missing or delayed, (4) promptly investigating any evidence of forgery and other irregularities that appear on the

statement, and (5) promptly notifying the bank of any forgeries or unauthorized payments.

Third, even with numerous protective measures in place, a dishonest employee or officer may nevertheless be able to embezzle by way of forging a check payable out of the firm's account. This calls for the third line of defense: periodic internal or external audits. The cost of such audits is far less than the potential losses that they may uncover.

Fourth, all access to signature stamps and signature machines, documents, and electronic data files relating to checking account activities, such as blank check forms, and periodic account statements, must be carefully restricted to those individuals who have been specifically authorized to have access. Not only will this help prevent a forgery of a check on the firm's account, it will also help to prevent a forger from covering up their illegal activity.

Finally, bank customers can negotiate with their bank over establishing various procedures for processing checks. The parties might agree on a set of procedures that entail duties on the part of the bank that are greater than those legally imposed by the RUCC, including the verification of signatures on some or all of the customer's checks before they are paid. Whether the bank would be willing to do this is largely a matter of relative bargaining power. It is highly unlikely that a bank would be willing to do this for a consumer, regardless of the bank's desire to establish and maintain a consumer-friendly image. On the other hand, a business customer is likely to have far more bargaining power than a consumer. A bank might be willing to do this (however reluctantly) for a firm in order to obtain the firm's banking business.

These measures to protect a firm from these sorts of losses are quite simple and low cost. For the most part, they are the basic financial control and security measures that every undergraduate accounting student knows. Their simplicity and low cost does not, however, seem to be sufficient to make them universal. Virtually every one of the major forgery cases appearing in the appellate reports over the last decade, many incurring losses in excess of $250,000, involve firms that failed to implement and maintain one or more of these basic measures. The recent rule changes discussed in this article have dramatically increased the risk of substantial loss from forgeries, making these measures essential.

with Mr. Walton, Mar. 17, 1997. With respect to *dollar amounts*, EFT has surpassed all other payments systems, including credit cards and checks, but this is largely due to the heavy use of EFT by large banks, governments, and large corporations.

[2] See *Story Road Flea Market, Inc. v. Wells Fargo Bank, N.A.*, 45 Cal. App. 4th 1733 (1996) (bookkeeper embezzled $255,761.60); *Roy Supply, Inc. v. Wells Fargo Bank, N.A.*, 39 Cal. App. 4th 1051 (1995) (over $3 million embezzled by corporate secretary/treasurer); *New Jersey Steel Corp. v. Midlantic National Bank*, 139 N.J. 536 (1995) ($571,931.90 embezzled by computer consultant); *Edward Fineman Co. v. Bank of America*, 66 Cal. App. 4th 1110 (1998) ($248,000 embezzled by accounting manager).

[3] Board of Governors of the Federal Reserve System, *Report to the Congress on Funds Availability Schedules and Check Fraud at Depositary Institutions*, 5-7 (1996); Telephone

interview with Mr. Jack Walton of the Federal Reserve Board, Washington, DC (17 Mar. 1997).

[4] This has been disputed by bank interest groups, which claim that bank losses are much higher, perhaps as much as $10 billion annually. See sources cited in Rochelle L. Wilcox, *Note, Ordinary Care Under the Code: A Look at the Evolving Standard of Bank Liability Under UCC 4-406*, 1997 UTAH L. REV. 933, 955 n.158.

[5] J. Milnes Holden, *The History of Negotiable Instruments in English Law* 21-29 (1955). The common law was first codified in both England and the United States in the late nineteenth century. See Steven B. Dow, *The Doctrine of Price v. Neal in English and American Forgery Law: A Comparative Analysis*, 6 TUL. J. INT'L COMP. L. 113, 114- 15, n.4 (1998).

[6] The original UCC was drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in conjunction with the American Law Institute beginning in the mid-1940s. See Fred H. Miller, *UCC Articles 3, 4, and 4A: A Study in Process and Scope*, 42 ALA. L. REV. 405, 406 (1991).

[7] The NCCUSL recently completed a major revision of Articles 3 and 4. These revisions, which began in 1985 and were completed in 1990, were motivated primarily by the need to accommodate the development of modern electronic check processing methods. See Robert G. Ballen, *Commercial Paper, Bank Deposits and Collections, and Other Payment Systems*, 45 BUS. LAW. 2341, 2355-57 (1990). See also *generally* works cited in Dow (1998), *supra* note 5, at 15-16 n.6.

[8] This section and the next provide a very brief summary of the legal concepts that are discussed in a voluminous literature. See Steven B. Dow, *Damages and Proof in Cases of Wrongful Dishonor: The Unsettled Issues Under UCC Section 4-402*, 63 WASH. U. L.Q. 239-46, 278-83 (1985). See also Roy Supply, Inc. v. Wells Fargo Bank, N.A., 39 Cal. App. 4th 1051, 1062 (1995).

[9] UCC section 4-401. See National Credit Union Admin. v. Michigan Nat'l Bank, 771 F.2d 154, 156 (6th Cir. 1985). See also sources cited in Nan S. Ellis & Steven B. Dow, *Banks and Their Customers Under the Revisions to Uniform Commercial Code Articles 3 and 4: Allocation of Losses Resulting From Forged Drawers' Signatures*, 24 LOY. L.A. L. REV. 60, n.17 (1991). The revised version of section 4-401 sets out a similar rule. A discussion of the revised UCC is presented later in this article.

[10] See Issac v. American Heritage Bank & Trust Co., 675 P.2d 742, 744 (Colo. 1984); Dow (1998), *supra* note 5, at 120 n.21.

[11] For the recent literature on check forgery see the works cited in *infra* note 26.

[12] See Roy Supply, Inc. v. Wells Fargo Bank, N.A., 39 Cal. App. 4th 1051, 1062 (1995); National Credit Union Admin. v. Michigan Nat'l Bank, 771 F.2d 154, 157 (6th Cir. 1985); Cumis Ins. Soc'y, Inc. v. Girard Bank, 522 F. Supp. 414, 418 (E.D. Pa. 1981); Dow & Ellis (1991), *supra* note 9, at 60, n.19.

[13] See generally John D. Columbo, Comment, *Commercial Paper and Forgery: Broader Liability for Banks?*, 1980 U. ILL. L. REV. 813, 820 n.49.

[14] This limitation is necessary in light of the complexity of the rules governing the allocation of losses resulting from forgery generally and the significant differences between the rules in cases of forged drawer's signatures and those in forged indorsements.

[15] See Fireman's Fund Ins. Co. v. Security Pac. Nat'l Bank, 85 Cal. App. 3d 797, 804 n.5 (1978).

[16] UCC section 3-406.

[17] See Fireman's Fund Ins. Co. v. Security Pac. Nat'l Bank, 85 Cal. App. 3d 797, 804 n.5 (1978).

[18] The official comments specified that "no attempt is made to define negligence. . . ." Official comment 3 to UCC section 3-406.

[19] Comment 7 to section UCC 3-406 specifies negligence in "looking after" a signature stamp as an example of behavior that would trigger the preclusion under the section. One of the leading articles on negligence is Douglas J. Whaley, *Negligence and Negotiable Instruments*, 53 N.C. L. REV. 1 (1974). See also Julianna J. Zekan, *Comparative Negligence Under the Code: Protecting Negligent Banks Against Negligent Customers*, 26 U. MICH. J.L. REFORM 125 (1992).

[20] See Public Citizen, Inc. v. First Nat'l Bank, 198 W. Va. 329 (1996).

[21] See *Wilder Binding Co. v. Oak Park Trust & Sav. Bank*, 527 N.E.2d 354 (Ill. App. Ct. 1988).

[22] UCC section 4-406(1).

[23] The circumstances were, first, where the bank suffered from a loss as a result of the customer's failure, and, second, where there were subsequent forgeries by the same wrongdoer. UCC section 4-406(2).

[24] See New Jersey Steel Corp. v. Midlantic Nat'l Bank, 139 N.J. 536, 544 (1994); Roy Supply, Inc. v. Wells Fargo Bank, N.A., 39 Cal. App. 4th 1051, 1063 (1995).

[25] See New Jersey Steel Corp. v. Midlantic Nat'l Bank, 139 N.J. 536, 544 (1994).

[26] For recent commentary on the RUCC see, e.g., Dow (1998), *supra* note 5; Benjamin D. Ellis, *Commercial Code: Commercial Paper, Bank Deposits and Collections: Adopt Uniform Commercial Code Provisions Regarding Negotiable Instruments and Bank Deposits and Collections*, 13 GA. ST. U. L. REV. 41 (1996); Maurice Portley, *Forged Checks: An Analysis of Civil Liability Under the Uniform Commercial Code*, 28 ARIZ. ST. L.J. 927 (1996); Michael D. Sabbath, *UCC Update: Revised Articles 3 and 4*, 48 MERCER L. REV. 83 (1996); Virginia Wilson, *The Law of Negotiable Instruments, Bank Deposits, and Collections in Tennessee: A Survey of Changes in the 1990 Revisions to UCC Articles 3 and 4*, 28 MEM. ST. U. L. REV. 117 (1997).

[27] RUCC section 4-401 partly clarifies what was implied in original section 4-401.

[25] The RUCC also specifies that if more than one signature is needed on an organization's check to authorize payment, the organization's signature is "unauthorized" if one of the required signatures is missing. RUCC section 3-403(b).

[27] RUCC section 3-406(b). See also Roy Supply, Inc. v. Wells Fargo Bank, N.A., 39 Cal. App. 4th 1051, 1064 (1995).

[30] RUCC section 3-103(a)(7).

[31] Ellis and Dow, *supra* note 9, at 71-74.

[32] Story Road Flea Market, Inc. v. Wells Fargo Bank, 42 Cal. App. 4th 1733 (1996).

[33] James J. White and Robert S. Summers, UNIFORM COMMERCIAL CODE 575-79, 656, 660 (4th ed. 1995).

[34] *Id.* at 577.

[35] *Id.* at 579. White and Summers suggest that banks may have to disclose their practices to their customers in order to enjoy the legal protection of section 3-103(a)(7). *Id.*

[36] Wilcox, *supra* note 4, at 933-962. Her argument is based primarily on comment 5 to RUCC section 3-103, which provides, in part, that "[n]othing in [the section] . . . is intended to prevent a customer from proving that the procedures followed by a bank are unreasonable, arbitrary, or unfair."

[37] RUCC section 4-406.

[38] RUCC section 4-406(d). See Edward Fineman Co. v. Bank of America, 66 Cal. App. 4th 1110 (1998).

[39] Comment 4 to RUCC section 4-406 makes this clear. There drafters state that the "bank should not have to share that loss solely because it has adopted an automated collection or payment procedure. . . ."

About the Authors

(Some authors do not furnish biographical material.)

Adrian Beck is a lecturer in Security Management at the Scarman Centre for the Study of Public Order, University of Leicester (UK).

Max Bromley, EdD, is a graduate of the National Crime Prevention Institute. After many years of service with the University of South Florida (USF), Division of Public Safety, he joined the full-time faculty at USF. Max is the author of several books and has previously published in this journal. Dr. Bromley is on the faculty of the Department of Criminology, University of South Florida, Tampa. He previously worked as Assistant Director at the University of South Florida, Division of Public Safety. Max is a graduate of professional development courses conducted by the FBI, Secret Service, and Michigan State University. He is a graduate of the National Crime Prevention Institute, at the University of Louisville, and has attended and conducted numerous crime prevention workshops. Max coauthored or coedited, publications on campus crime, crime prevention, campus law enforcement administration and other criminal justice topics. In 1986, he was recognized by the International Association of Campus Law Enforcement Administrators for his publication titled *Departmental Self-Study: A Guide for Campus Law Enforcement Administrators*, utilized in over 1,000 institutions of higher learning. Bromley coedited *Hospital and College Security Liability*, 1987; coauthored *College Crime Prevention and Personal Safety Awareness*, 1990; and, coauthored, a college text, *Crime and Justice in America*, 1992.

Steven B. Dow, PhD, is an Associate Professor, Michigan State University. He received his doctorate from the University of Michigan, Rackham School of Graduate Studies. Dr. Dow's law degree was earned at The Ohio State University College of Law. He has authored numerous articles and textbook chapters.

Martin Gill, BA (Hons), PhD, is the new Director of the Scarman Centre for the Study of Public Order, University of Leicester (UK). He is coeditor of the *Security Journal* as well as the *Risk International Management: An International Journal*. Martin is a member of our editorial board.

Giovanni Manunta, PhD, served 15 years in the Italian Army, reaching the rank of major (parachutists). He has served 18 years as an independent security consultant. Dr. Manunta is currently academic leader and senior lecturer in the MSC program, Corporate Security Management, Cranfield Security Centre. Cranfield is part of the Royal Military College (UK).

Andrew Willis is a Senior Lecturer in Criminology, Scarman Centres for the Study of Public Order, University of Leicester (UK).