

FLSA-653

October 13, 1981

This is in reply to your letter of September 11, 1981, in which you request an opinion as to whether an employer who has terminated a nonexempt employee for passing bad checks may deduct from the final pay of such an employee any amounts owed by the employee to the employer as a result of the bad checks.

Where an employee has cashed a bad check with his/her employer, or purchased merchandise with a bad check, it is clear that, as a matter of law, the employee would owe such an amount to the employer. Accordingly, in our enforcement of the FLSA, we would not assert a violation of the Act's monetary requirements where wages are withheld in repayment of a debt which, in fact, resulted from the employee's tendered bad check. In accordance with this, please see Mayhue's Super Liquor Stores, Inc. v. Hodgson, 5th Cir. 1972, 464 F 2d 1196, 20 WH Cases 808, cert. denied 409 U.S. 1108, 93 S. Ct. 908, 20 WH Cases 1054.

We trust the above is responsive to your inquiry.

Sincerely,

William M. Otter
Administrator