6-02/090.00 Pay Over Money, Neglect or Refusal to

• 6-02/090.10 Failure to pay over money

GC 26680 If on demand the sheriff neglects or refuses to pay over to the person entitled any money which comes into his hands by virtue of his office, after deducting all legal fees, the person may recover the amount thereof and 25 percent damages and interest at the rate of 10 percent a month from the time of demand.

• 6-02/090.20 Distribution or deposit; time for payment; receipt of noncash payment; officerâ€™s liability

CCP 701.820. (a) Promptly after a sale or collection under this title, the levying officer shall distribute the proceeds to the persons entitled thereto or, in cases covered by Section 701.830, deposit the proceeds with the court.

(b) Except as otherwise provided by statute, the proceeds shall be paid to the persons entitled thereto within 30 days after the proceeds are received by the levying officer.

(c) If the proceeds are not received by the levying officer in one payment, the levying officer may accumulate proceeds received during a 30-day period and the accumulated proceeds shall be paid to the persons entitled thereto not later than 10 days after the expiration of the 30-day period.

(d) When proceeds are received by the levying officer in the form of a check or other form of noncash payment that is to be honored upon presentation by the levying officer for payment, the proceeds are not received for the purposes of this section until the check or other form of noncash payment has actually been honored upon presentation for payment.

(e) The provisions of Section 26680 of the Government Code apply to the levying officer only if all of the following conditions are satisfied:

(1) The levying officer has failed to pay the proceeds or deposit them with the court as provided in this article within the time provided in this section.

(2) Upon such failure, a person entitled to any of the proceeds has filed, in person or by certified mail, with the levying officer a written demand for the payment of the proceeds to the persons entitled thereto.

(3) The levying officer has failed within 10 days after the demand is filed to pay to the person filing the demand the proceeds to which that person is entitled.

(f) If all proceeds have not been received within 10 days after the filing of the demand specified by paragraph (3) of subdivision (e), a judgment creditor may file an ex parte application for an order directing the levying officer to show cause why relief should not be granted pursuant to Section 26680 of the Government Code. The order shall name a date and time for the levying officer to appear not less than 20

and not more than 30 days after filing of the application. If the levying officer pays all proceeds as provided in subdivision (e) of Section 701.810 to the judgment creditor no later than 10 days prior to the hearing, the judgment creditor shall notify the court of full payment no later than three days prior to the hearing and the court shall withdraw the order and vacate the hearing.

(g) An ex parte application filed pursuant to subdivision (f) shall state the date and manner of all of the following:

(1) Delivery of the writ of execution to the levying officer.

(2) Remittance of the proceeds to the levying officer.

(3) Filing of the 10-day demand pursuant to subdivision (e).

(h) If the court finds that the facts alleged in the ex parte application filed pursuant to subdivision (f) to be knowingly false, or made in bad faith, the court may award costs and reasonable attorney fees to the levying officer.