

**IIBLP
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**LC Provisions for “Purportedly”
Signed Documents**

A surprising number of LCs, particularly standbys, require “purportedly” signed documents. Some bankers and lawyers think it is customary and/or desirable to draft LCs to call for, e.g., a “statement purportedly signed by the beneficiary stating that ...”

It is a truism that bankers expect reimbursement for honoring documents that purport to be what they are not. It is customary and appropriate for issuers to say in reimbursement agreements that they are entitled to reimbursement for “purported” drawings under the LC, etc. The UCC, and ISP98 (and arguably UCP500) say as much. However, this is not a precise or benign way to indicate that documents presented under an LC are examined “on their face”. It is not customary or appropriate to say in an LC that the issuer will honor documents that only appear or purport to be signed (or issued, genuine, original, etc.)

It’s unnecessary to preserve the issuer’s right to reimbursement after honoring forged documents.

It’s endless—“purportedly signed by a purported officer of the purported beneficiary and purporting to say that...”

It’s not intended—no issuer or applicant wants forged documents.

It confuses everyone’s rights and obligations in the event that a draft or demand is purportedly, but not actually, signed by the beneficiary. On this last issue, consider:

- Rev. UCC 5-108(i) provides: “An issuer that has honored a presentation as permitted or required by this article: (1) is entitled to be reimbursed...and (5) is discharged to the extent of its performance under the letter of credit unless the issuer honored a presentation in which a required signature of a beneficiary was forged.”
- Official Comment 13 says: “The last clause of Section 5-108(i)(5) deals with a special case in which the fraud is not committed by the beneficiary, but is committed by a stranger to the transaction who forges the beneficiary’s signature. If the issuer pays against documents on which a required signature of the beneficiary is forged, it remains liable to the true beneficiary.”
- If the LC itself says it is payable against a draft or demand “purportedly signed” by the beneficiary, then an otherwise unnecessary question arises as to whether honor of a forged draw would discharge the LC and create a defense against the innocent true beneficiary.
- Note that Pennsylvania adopted a non uniform version of 5-108(i)(5).