

OCCC CASE NO. L19-00278

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NO. 341	§	
PAWN TX, INC.	§	OFFICE OF CONSUMER
D/B/A FIRST CASH PAWN	§	
1600 WEST 7TH STREET, ATTENTION	§	CREDIT COMMISSIONER
COMPLIANCE/LICENSING 5TH FLOOR	§	
FORT WORTH, TEXAS 76102		STATE OF TEXAS

ORDER TO REPLACE LOST PLEDGED GOODS

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order to Replace Lost Pledged Goods against Pawn TX, Inc. d/b/a First Cash Pawn (“First Cash Pawn”) based on the violations of law described below.¹

Statement of Facts and Law

Pawn TX, Inc. is licensed by the OCCC as a pawnshop under Chapter 371 of the Texas Finance Code. Pawn TX, Inc. operates under master file number 341, and is authorized to operate as First Cash Pawn under license number 2908 at 3110 S. Buckner Blvd., Dallas, Texas 75227. Pawn TX, Inc.’s compliance officer is Tami Simpson, and its designated contact address is 1600 West 7th Street, Attention Compliance/Licensing 5th Floor, Fort Worth, Texas 76102.

On January 9, 2019, a customer entered First Cash Pawn located at 3110 S. Buckner Blvd. in Dallas, Texas and inquired about obtaining a pawn loan by pledging a ring. The pawnshop’s employees evaluated the ring and made the customer an offer. The customer immediately rejected the offer and asked the pawnshop employees to return the ring. Despite having just examined it, the employees were unable to locate and return the ring. The customer contacted corporate headquarters for First Cash Pawn. The corporate representative offered to replace the ring by allowing the customer to select another ring from the pawnshop’s inventory. The customer declined this offer.

¹ Tex. Fin. Code § 14.208.

The customer subsequently filed a report with the Dallas Police Department, stating the estimated value of the ring to be approximately \$20,000.² The customer also filed a complaint with the OCCC.³ The customer provided the OCCC with an insurance appraisal for the ring, describing it as a 14 karat yellow gold ring with one round cut center diamond weighing 1.6 carats, and two side diamonds weighing 1.5 carats each.⁴ The appraisal estimated the retail replacement value to be \$31,358.46.

Based solely on its employees' recollection after briefly examining the ring, First Cash Pawn described the ring as weighing 7 grams with three small diamonds weighing 0.15 carats each. First Cash Pawn estimated the ring's resale value as between \$400 to \$600. First Cash Pawn proposes to replace the customer's ring based on this description.

A pawnshop has a duty to replace pledged goods that are lost while in the pawnshop's possession with like kind merchandise.⁵ The customer's ring constitutes "pledged goods" because the customer delivered the ring into the possession of First Cash Pawn in connection with a pawn transaction.⁶ Goods are considered lost if the goods are destroyed or have disappeared and are unavailable for return to the customer.⁷ Therefore, First Cash Pawn has a duty to replace the customer's ring with like kind merchandise.

The replacement of pledged goods by the pawnshop is subject to approval by the OCCC.⁸ After reviewing the relevant documents submitted by the pawnshop and the customer, the OCCC analyzed the customer's authority to receive a replacement and the pawnshop's proposed replacement. The OCCC concludes that the customer is entitled to receive a replacement of like kind merchandise. The OCCC also concludes that First Cash Pawn's description of the ring is inaccurate, and any replacement based on that description would not constitute like kind merchandise. Accordingly, First Cash Pawn's proposed replacement is not approved.

² City of Dallas Police Department Case No. 006007-2019.

³ OCCC Complaint No. 113543.

⁴ 7 Tex. Admin. Code § 85.413(h)(1) (authorizing the OCCC to request copies of documents related to the transaction, review appraisals, and analyze the complainant's authority to receive a replacement). The OCCC provided the appraisal to First Cash Pawn on February 15, 2019.

⁵ Tex. Fin. Code § 371.167(a); 7 Tex. Admin. Code § 85.413(a).

⁶ Tex. Fin. Code § 371.003(9).

⁷ Tex. Fin. Code § 371.167(b).

⁸ Tex. Fin. Code § 371.167(a); 7 Tex. Admin. Code § 85.413.

Authority

If the Commissioner has reasonable cause to believe that a person is violating Chapter 371, the Commissioner may issue an order to cease and desist from the violation, take affirmative action, or both, to enforce compliance.⁹

The Commissioner has reasonable cause to believe that Pawn TX, Inc. is violating Chapter 371 by failing to replace pledged goods that are lost with like kind merchandise.

Order

IT IS ORDERED that Pawn TX, Inc. d/b/a First Cash Pawn:

1. no later than May 20, 2019, replace the lost pledged goods of the customer identified above with like kind merchandise based on the description found in the customer's insurance appraisal;
2. no later than May 20, 2019, submit a report to the OCCC that includes photographs of the replacement, documentation from the maker of the ring, and a detailed description of the ring including the attributes, weight, shape, cut, measurements, clarity, and color of the diamonds and gold.
3. cease and desist from violating Section 371.167 of the Finance Code;

Violation of Order

Pawn TX, Inc. may be assessed an administrative penalty of up to \$1,000 for each day of violating this Order after it becomes final.¹⁰ Multiple violations may also result in license revocation.¹¹

⁹ Tex. Fin. Code § 14.208(a).

¹⁰ Tex. Fin. Code § 14.208(c).

¹¹ Tex. Fin. Code § 371.251; 7 Tex. Admin. Code § 85.604(b)(5), (7).

Right to Request Hearing

Pawn TX, Inc. has the right to request a hearing regarding this Order.¹² A request must be made in writing and sent to the OCCC not later than 30 days after receiving this Order. The request must be sent to:

Michael Rigby
Office of Consumer Credit Commissioner
2601 N. Lamar Blvd.
Austin, Texas 78705

If Pawn TX, Inc. requests a hearing, a hearing on this matter will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.¹³ If Pawn TX, Inc. does not request a hearing by the deadline, this Order is considered final and enforceable.¹⁴

All communications with the OCCC concerning this matter must be through Michael Rigby, General Counsel, who may be contacted by mail at 2601 N. Lamar Blvd., Austin, Texas 78705, by telephone at (512) 936-7623, or by email to michael.rigby@occc.texas.gov.

Signed this 15th day of April, 2019.

/s/ Leslie L. Pettijohn
Leslie L. Pettijohn
Consumer Credit Commissioner
State of Texas

¹² Tex. Fin. Code § 14.208(b).

¹³ Tex. Fin. Code § 14.208(b).

¹⁴ Tex. Fin. Code § 14.208(c).

CERTIFICATE OF SERVICE

I certify that on April 15, 2019, a true and correct copy of this Order to Replace Lost Pledged Goods has been sent to Pawn TX, Inc. by the following methods:

Pawn TX, Inc.
ATTN: Tami Simpson, Compliance Officer
1600 West 7th Street, Attention
Compliance/Licensing 5th Floor
Fort Worth, TX 76102

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7037 5162 1370

Pawn TX, Inc.
ATTN: R. Douglas Orr, Registered Agent
1600 West 7th St.
Fort Worth, TX 76102

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7037 5162 1387

/s/Michael Rigby
Michael Rigby
General Counsel
Office of Consumer Credit Commissioner
State Bar No. 50511925
2601 North Lamar Blvd.
Austin, Texas 78705
(512) 936-7623
(512) 936-7610 (fax)
michael.rigby@occc.texas.gov