

SOAH DOCKET NO. 466-18-3278

OCCC CASE NO. L18-00003

IN THE MATTER OF:	§	BEFORE THE
	§	
LICENSE NUMBER: 1427026	§	OFFICE OF CONSUMER
ALFREDO PRADO	§	
CASH AMERICA PAWN, LP	§	CREDIT COMMISSIONER
1217 SHANNON OAKS TRAIL	§	
AUSTIN, TEXAS 78746	§	STATE OF TEXAS

FINAL ORDER

On December 8, 2017, the Office of Consumer Credit Commissioner (“OCCC”) issued a Notice of Hearing on Revocation of Pawnshop Employee License regarding Alfredo Prado (“Mr. Prado”). A hearing was held on July 20, 2018, on whether Mr. Prado’s pawnshop employee license should be revoked. Mr. Prado failed to appear at the hearing. Therefore, the OCCC issues this Final Order after default under Title 7, Section 9.12 of the Texas Administrative Code.

Findings of Fact

1. Mr. Prado was licensed by the OCCC to act as a pawnshop employee under Chapter 371 of the Texas Finance Code. Mr. Prado’s pawnshop employee license number was 1427026.
2. Mr. Prado was employed by Cash America Pawn LP (“Cash America”). Cash America holds pawnshop licenses with the OCCC under Chapter 371 of the Texas Finance Code, with master file number 984.
3. Mr. Prado worked at the Cash America pawnshop located at 7544 N. Lamar Blvd., Austin, TX 78752. This location is a pawnshop licensed by the OCCC, with license number 152078.
4. Cash America hired Mr. Prado on March 27, 2015. The effective date for Mr. Prado’s pawnshop employee license was March 27, 2015. Mr. Prado’s pawnshop employee license was last renewed on June 24, 2017.

5. The last known home address that Mr. Prado provided to the OCCC is 1217 Shannon Oaks Trail, Austin, TX 78746. This address was listed on Mr. Prado's pawnshop employee license application.
6. Cash America has a policy entitled "Avoiding the Acceptance of Stolen Merchandise Policy." Mr. Prado signed this policy on March 27, 2015.
7. The policy that Mr. Prado signed includes the following statements: "Cash America's financial well being and its integrity in the communities in which it operates depend on its ability to avoid accepting stolen merchandise. Therefore, it is the policy of Cash America that all of its pawnshop coworkers use every reasonable effort to avoid accepting merchandise from customers, whether through pawn or purchase transactions, in situations where the customers are not authorized to pledge or sell such merchandise. . . . All Cash America coworkers must scrutinize each pawn and purchase transaction to determine whether the circumstances indicate likelihood that the customer may not own the merchandise in question and may be acting without the consent of the rightful owner."
8. On August 2, 2017, officers of the Austin Police Department ("APD") Property Crimes Task Force engaged in a property reversal operation at the pawnshop where Mr. Prado was employed.
9. A property reversal operation occurs when an undercover officer sells stolen property to an actor engaged in the business of buying and selling used or secondhand personal property.
10. In this case, the APD officers were focused on businesses known to buy and sell used jewelry. Prior to conducting the operation, the APD officers were given a quantity of jewelry appraised over \$1,500.
11. On August 2, 2017, an APD undercover officer entered the Cash America location at 7544 N. Lamar Blvd. in Austin, Texas. At the time, Mr. Prado was on duty as a pawnshop employee.

12. The undercover officer made contact with Mr. Prado and attempted to sell the jewelry to Cash America.
13. The officer stated that he did not have an ID and that a friend could come and provide an ID. The officer stated that the jewelry was stolen and he did not want his name attached. Mr. Prado stated that he required an ID.
14. The officer stated that his friend would be at the store in a couple minutes. Mr. Prado told the officer to tell his friend that if anything came up as stolen, they would have descriptions of the jewelry and an address.
15. A second APD undercover officer entered the pawnshop, joining the first officer. The second officer provided identification to Mr. Prado.
16. Using this identification, Mr. Prado completed two purchase transaction tickets and provided the officers with \$830.50 for the jewelry.
17. Mr. Prado was arrested and charged with misdemeanor theft.

Conclusions of Law

1. Chapter 371 of the Texas Finance Code is also known as the "Texas Pawnshop Act." The purposes of Chapter 371 include preventing transactions in stolen property.
2. Under Section 371.181 of the Texas Finance Code and Title 7, Section 85.418 of the Texas Administrative Code, a pawnbroker must monitor goods purchased by a pawnbroker, to identify and prohibit transactions involving stolen goods.
3. Under Title 7, Section 85.418 of the Texas Administrative Code, a pawnshop must establish a written policy for the acceptance of goods. The policy must list procedures to be followed in order to avoid the acceptance of stolen goods. Each pawnshop employee must sign a document acknowledging receipt and understanding of the policy.

4. Under Section 371.174 of the Texas Finance Code, a pawnbroker must require identification of the seller if a transaction is a purchase of goods by the pawnbroker. The identification must contain a photograph of the seller and is limited to government-issued forms of identification. The pawnbroker must make the pawnbroker's best effort to determine whether the identification is apparently genuine and unaltered, and properly identifies the seller.
5. Under Section 371.255 of the Texas Finance Code, after notice and a hearing, the Consumer Credit Commissioner ("Commissioner") may revoke a pawnshop employee license if the Commissioner finds that: (1) the license holder knowingly or recklessly violated Chapter 371 or a rule adopted or order issued under Chapter 371; (2) a fact or condition exists that, if it had existed or had been known to exist at the time of the original license application, clearly would have justified refusal to issue the license; or (3) the moral character, business repute, and general fitness of the license holder do not warrant belief that the license holder will operate the business lawfully and fairly within the provisions of Chapter 371.
6. Under Section 371.102 of the Texas Finance Code, to be eligible for a pawnshop employee license, an individual must: (1) be of good moral character and good business repute; and (2) possess the character and general fitness necessary to warrant belief that the individual will operate the business lawfully and fairly under Chapter 371.
7. Under Title 7, Section 85.604 of the Texas Administrative Code, a pawnshop employee who fails to comply with Chapter 371 or its implementing rules is subject to revocation. A pawnshop employee who knowingly or without exercise of due care violates the purposes of Chapter 371 or its implementing rules is subject to revocation.
8. Under Title 7, Section 85.604 of the Texas Administrative Code, a pawnshop employee who knowingly or without exercise of due care accepts stolen property or accepts property which has been represented to be stolen without reporting it to law enforcement may be subject to revocation.

9. Under Title 7, Section 85.702 of the Texas Administrative Code, reasonable ground for revocation exists when a pawnshop employee, knowingly or without exercising due care, fails to prevent a transaction in stolen property.
10. Mr. Prado knowingly or without exercise of due care accepted property that was represented to be stolen.
11. Mr. Prado knowingly or without exercise of due care failed to prevent a transaction in stolen property.
12. By accepting property that was represented to be stolen, Mr. Prado knowingly or recklessly violated Chapter 371 and its implementing rules.
13. By accepting property that was represented to be stolen, Mr. Prado knowingly or without exercise of due care violated the purposes of Chapter 371, which include the prevention of transactions in stolen property.
14. By accepting the purchase of property without requiring identification of the seller, Mr. Prado knowingly or recklessly violated Chapter 371 and its implementing rules.
15. Mr. Prado's violations of Texas law are facts or conditions that, if they had existed or had been known to exist at the time of the original license application, clearly would have justified refusal to issue the license.
16. Based on Mr. Prado's violations of Texas law, Mr. Prado's moral character, business repute, and general fitness do not warrant belief that he will operate lawfully and fairly within the provisions of Chapter 371.
17. Based on Mr. Prado's violations of Texas law, Mr. Prado is subject to revocation of his pawnshop employee license.
18. The OCCC provided adequate notice of the hearing to Mr. Prado.

19. Mr. Prado defaulted as a matter of law under Title 1, Section 155.501 of the Texas Administrative Code and Title 7, Section 9.12 of the Texas Administrative Code.
20. The allegations in the Notice of Hearing are deemed admitted as true under Title 1, Section 155.501 of the Texas Administrative Code and Title 7, Section 9.12 of the Texas Administrative Code.
21. On March 4, 2015, the Commissioner issued a Delegation Order on contested case decision-making authority. The Order delegates the Commissioner's authority to issue a final order after a hearing to Juan V. Garcia, who is employed by the OCCC as Director of Strategic Communications, Administration and Planning.

Order

After review and due consideration, I hereby adopt the above-stated findings of fact and conclusions of law.

IT IS ORDERED that the pawnshop employee license of Alfredo Prado, license number 1427026, is REVOKED.

SIGNED and ENTERED this 1st day of November, 2018.

By: /s/Juan V. Garcia
Juan V. Garcia
Office of Consumer Credit Commissioner
Pursuant to Delegation Order of March 4, 2015

SERVICE LIST

On November 1, 2018, Juan V. Garcia, Director of Strategic Communications, Administration and Planning, Office of Consumer Credit Commissioner, sent this Final Order to:

Alfredo Prado
Cash America Pawn, LP
7544 N. Lamar Blvd.
Austin, TX 78752
512-467-2568 (p)
817-258-6881 (f)
aus20@shops.casham.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7108 2133 3939 0802 8188

Alfredo Prado
1217 Shannon Oaks Trail
Austin, TX 78746

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7108 2133 3939 0802 8195

Cash America Pawn LP
Attn: Tami Simpson,
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