

OCCC CASE NO. L21-00113

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NO.: 1600056665	§	OFFICE OF CONSUMER
GIO KELLY PAWN LLC	§	
d/b/a PLUS PAWN	§	CREDIT COMMISSIONER
2010 S. BUCKNER BLVD	§	
DALLAS, TEXAS 75217	§	STATE OF TEXAS

ORDER OF REVOCATION

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order of Revocation against Gio Kelly Pawn LLC d/b/a Plus Pawn (“Plus Pawn”).<sup>1</sup>

**Statement of Facts and Law**

Plus Pawn is a pawnshop licensed by the OCCC under Chapter 371 of the Texas Finance Code. Plus Pawn operates under master file number 1600056665 at one licensed location, under license number 156652. Plus Pawn’s compliance officer is Kelly Scott, and its designated contact address is 2010 S. Buckner Blvd, Dallas, Texas 75217.

**Failure to File Annual Reports**

A pawnshop must file annual reports with the Consumer Credit Commissioner (“Commissioner”).<sup>2</sup> For each pawnshop licensed location, a pawnshop must file an annual report by July 31 for the prior calendar year’s activity, and must comply with all instructions relating to submitting the report.<sup>3</sup>

On December 6, 2018, the OCCC issued an Injunctive Order to File Timely and Accurate Reports (the “Order”) against Plus Pawn for violating Chapter 371 of the Texas Finance Code by failing to timely file its 2017 annual report. The Order required Plus Pawn to timely file all future annual reports.

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<sup>1</sup> Tex. Fin. Code §§ 14.208(a), 371.251.

<sup>2</sup> Tex. Fin. Code § 371.201; 7 Tex. Admin. Code § 85.502.

<sup>3</sup> Tex. Fin. Code § 371.201; 7 Tex. Admin. Code § 85.502; <https://occc.texas.gov/industry/pawnshops-and-pawn-employees/annual-reports>

On July 31, 2020, the annual report for calendar year 2019 for all pawnshops were due.<sup>4</sup> Plus Pawn failed to file its 2019 annual report with the Commissioner for one licensed location, under license number 156652, by July 31, 2020. Therefore, Plus Pawn violated the Order issued on December 6, 2018, which required it to file all reports on time.

On November 6, 2020, the OCCC issued an Order Imposing Administrative Penalty against Plus Pawn for violating the Order issued on December 6, 2018. Plus Pawn was ordered to pay an administrative penalty of \$500.00 and to file its delinquent annual report. Plus Pawn failed to pay the administrative penalty, and failed to file the 2019 annual report, as required by the Order issued on November 6, 2020.

### **Failure to Allow an Exam and Investigation**

Under Chapter 371 of the Texas Finance Code, at times the OCCC considers necessary, the OCCC will examine each place of business of each licensee, and will investigate the licensee's transactions and records.<sup>5</sup> A licensee must give the OCCC free access to the licensee's office and place of business.<sup>6</sup> If the OCCC has reasonable cause to believe that a person is violating Chapter 371, then the OCCC may conduct an investigation to discover a violation or obtain required information.<sup>7</sup> Under Chapter 371's implementing rules, a licensee is responsible for ensuring that all contact information on file with the OCCC is current and correct.<sup>8</sup>

The OCCC received several complaints that lead to an investigation of Plus Pawn. On February 26, 2020, an OCCC examiner attempted to contact Plus Pawn at its designated contact phone number to coordinate a date for its regular examination and the investigation. The phone number was disconnected. On February 27, 2020, the examiner attempted the compliance contact phone number, which was also disconnected. On March 6, 2020, the examiner visited the licensed location for Plus Pawn at is 2010 S. Buckner Blvd, Dallas, Texas 75217 to conduct the examination and investigation. The licensed location for Plus Pawn was empty, and no business was located there. The OCCC examiner followed up with calls to all phone numbers Plus Pawn provided to the OCCC without an answer. The OCCC never received any

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<sup>4</sup> Tex. Fin. Code § 371.201; 7 Tex. Admin. Code § 85.502; <https://occc.texas.gov/industry/pawnshops-and-pawn-employees/annual-reports>

<sup>5</sup> Tex. Fin. Code § 371.201.

<sup>6</sup> Tex. Fin. Code § 371.202.

<sup>7</sup> Tex. Fin. Code §§ 14.201, 14.202.

<sup>8</sup> 7 Tex. Admin. Code § 85.209(d).

requested documents. By failing to allow the OCCC to examine and investigate its licensed location, records, and transactions, Plus Pawn violated Chapter 371 of the Texas Finance Code.

### **Failure to Maintain Ordinary Business Hours**

A pawnshop must maintain business hours at least four hours a day for five days a week, and may not do business before 7:00 am or after 9:00 p.m.<sup>9</sup> The pawnshop's normal operating schedule must be posted so it is visible from the main public entrance, and the pawnshop must be open for business according to that schedule.<sup>10</sup> Pawnshops must post a notice of any closing unrelated to a federal holiday in a place visible from the main public entrance.<sup>11</sup>

When the OCCC examiner visited the Plus Pawn location on March 6, 2020, Plus Pawn had ceased operations at its licensed location. By failing to operate at least four hours a day for five days a week or post a closing notice, Plus Pawn has violated Chapter 371 of the Texas Finance Code and its implementing rules.

### **Operating Under an Unlicensed Name**

A pawnshop license application must include any assumed name under which the pawnshop will operate.<sup>12</sup> A pawnshop license must state the name and address of the pawnbroker and must be displayed at the place of business provided on the license.<sup>13</sup> The license application filed by Gio Kelly Pawn LLC listed "Plus Pawn" as the only assumed name under which it would operate. However, when the OCCC examiner visited the Plus Pawn licensed location on March 6, 2020 the pawnshop had a large sign with the name "Pawn Depot" rather than "Plus Pawn" on the building. In addition, the records of the Texas Secretary of State reflect that Gio Kelly Pawn LLC filed two assumed name certificates - one for Plus Pawn and another for Pawn Depot. However, Gio Kelly Pawn LLC was not licensed by the OCCC to operate under the name "Pawn Depot." Therefore, Gio Kelly Pawn LLC operated a pawnshop under an unlicensed name in violation of Texas law.

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<sup>9</sup> Tex. Fin. Code § 371.151.

<sup>10</sup> 7 Tex. Admin. Code § 85.401(a).

<sup>11</sup> 7 Tex. Admin. Code § 85.401(b).

<sup>12</sup> Tex. Fin. Code § 371.054(b); 7 Tex. Admin. Code §85.202(a)(1)(j).

<sup>13</sup> Tex. Fin. Code § 371.067.

## Authority

The Commissioner may revoke a pawnshop license if the license holder knowingly or without the exercise of due care violates Chapter 371 of the Texas Finance Code, a rule adopted under Chapter 371, or an order issued under Chapter 371.<sup>14</sup> The Commissioner may also revoke a pawnshop license if a fact or condition exists that, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the Commissioner's denial of the application.<sup>15</sup>

Plus Pawn violated the Order issued on December 6, 2018 by failing to timely file its 2019 annual report.<sup>16</sup> Plus Pawn also violated the Order issued on November 6, 2020 by failing to file its 2019 annual report and failing to pay the administrative penalty. Plus Pawn also violated Chapter 371 of the Texas Finance Code by failing to allow an investigation into other potential violations. Plus Pawn committed these violations knowingly and without the exercise of due care. These violations would have justified denial of Plus Pawn's license had they existed or been known to exist at the time of the license application. For these reasons, the Commissioner issues this Order of Revocation.

## Order

IT IS ORDERED that:

1. The pawnshop license of Gio Kelly Pawn LLC d/b/a Plus Pawn, master file number 1600056665, license number 156652, is REVOKED.
2. Plus Pawn must cease and desist entering new pawn transactions.
3. **No later than 35 days after the date of this Order**, Plus Pawn must send a notice of the revocation by first class mail to all pledgors who have goods in the possession of, but not forfeited to, Plus Pawn, at the address recorded on the pawn ticket.<sup>17</sup>

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<sup>14</sup> Tex. Fin. Code § 371.251(a)(2).

<sup>15</sup> Tex. Fin. Code § 371.251(a)(3).

<sup>16</sup> Tex. Fin. Code § 14.208(c).

<sup>17</sup> Tex. Fin. Code § 371.253.

4. **No later than 35 days after the date of this Order**, Plus Pawn must send the OCCC a spreadsheet identifying each open pawn transaction of the business. This spreadsheet must be sent by email to Audrey Spalding at [audrey.spalding@occc.texas.gov](mailto:audrey.spalding@occc.texas.gov). The spreadsheet must include a row for each pledgor's name and the following columns:
  - a. Loan number
  - b. Maturity date
  - c. Remaining amount due
  
5. **Until the 60th day after the date of this Order**, Plus Pawn may assign outstanding pawn transactions, and transfer any pledged goods, to another licensed pawnshop within five miles of Plus Pawn's licensed location. Plus Pawn may not assign outstanding transactions or transfer pledged goods except in compliance with this Order. Plus Pawn must notify each pledgor of the assignment in writing by first-class mail and by posting at the public entrance of the transferor's and transferee's licensed location:
  - a. that the pledged goods have been transferred,
  - b. of the location where the pledged goods may be redeemed, and
  - c. of the business hours when the pledged goods may be redeemed.
  
6. **For at least 60 days after the final maturity date of any outstanding pawn transaction**, Plus Pawn must maintain its usual business hours to allow pledgors to redeem pledged goods.<sup>18</sup> If a pledgor requests an extension of time in which to redeem his or her pledged goods, Plus Pawn must grant an extension not to exceed 30 days.<sup>19</sup> If a consumer is granted an extension of time, Plus Pawn must notify the OCCC of the extension within five days by email to [audrey.spalding@occc.texas.gov](mailto:audrey.spalding@occc.texas.gov).
  
7. Once all pledged goods have been assigned, redeemed, or forfeited to the pawnshop, Plus Pawn must notify the OCCC via email at [audrey.spalding@occc.texas.gov](mailto:audrey.spalding@occc.texas.gov) that it has no remaining open pawn transactions.
  
8. **No later than 90 days after the date of this Order**, Plus Pawn must cease collecting any payments in connection with pawn transactions.

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<sup>18</sup> Tex. Fin. Code § 371.254(a).

<sup>19</sup> Tex. Fin. Code § 371.254(b).

9. **No later than 90 days after the date of this Order**, for any outstanding pawn transactions that were not transferred to another licensed pawnshop within 60 days after the date of this Order, Plus Pawn must return the pledged goods to the pledgor.
10. If the OCCC requests any information regarding outstanding pawn transactions, Plus Pawn must provide the requested information within five days.

### **Response and Right to Request Hearing**

You have the right to request a hearing regarding this Order.<sup>20</sup> To request a hearing, you must send a written hearing request to the OCCC no later than 30 days after the date of this Order. You must send your request to Audrey Spalding, Assistant General Counsel, by mail to 2601 N. Lamar Blvd., Austin, Texas 78705, or by email to [audrey.spalding@occc.texas.gov](mailto:audrey.spalding@occc.texas.gov).

If you request a hearing, a hearing on this matter will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.<sup>21</sup> If you fail to request a hearing by this deadline, this Order will be considered final and enforceable.<sup>22</sup>

All communications with the OCCC concerning this matter must be through Audrey Spalding, Assistant General Counsel, who may be contacted by mail at 2601 N. Lamar Blvd., Austin, Texas 78705, by telephone at (512) 936-7659, or by email to [audrey.spalding@occc.texas.gov](mailto:audrey.spalding@occc.texas.gov).

Signed this 15th day of July, 2021.

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

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<sup>20</sup> Tex. Fin. Code §§ 14.208(b), 371.251(a).

<sup>21</sup> Tex. Fin. Code §§ 14.208(b), 371.251(a).

<sup>22</sup> Tex. Fin. Code §§ 14.208(c), 371.251(a).

**CERTIFICATE OF SERVICE**

I certify that on July 15, 2021, a true and correct copy of this Order of Revocation has been sent to Gio Kelly Pawn LLC d/b/a Plus Pawn the following methods:

Gio Kelly Pawn LLC d/b/a Plus Pawn  
Attn: Kelly Scott, Compliance Officer  
2010 S. Buckner Blvd  
Dallas, TX 75217  
[pluspawn@gmail.com](mailto:pluspawn@gmail.com)

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested  
#9214 8901 9403 8300 0044 7115 10

Gio Kelly Pawn LLC d/b/a Plus Pawn  
Attn: Kelly Scott, Registered Agent  
927 Horizon Hills Dr.  
Dallas, TX 75253  
[pluspawn@gmail.com](mailto:pluspawn@gmail.com)

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested  
#9214 8901 9403 8300 0044 7115 27

/s/ Audrey Spalding  
Audrey Spalding  
Assistant General Counsel  
Office of Consumer Credit Commissioner  
State Bar No. 24111055  
North Lamar Blvd.  
Austin, Texas 78705  
(512) 936-7659  
(512) 936-7610 (fax)  
[audrey.spalding@occc.texas.gov](mailto:audrey.spalding@occc.texas.gov)