BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel., DEPARTMENT OF CONSUMER CREDIT,	)	
Petitioner	)	
v.	)	Case No. 13-0177-DIS
PATE PAINTING, INC., d/b/a ED'S PAWN SHOP,	)	
Respondent	)	

FINAL AGENCY ORDER

ON THE 10th day of March, 2014, at approximately 1:35 p.m. (after providing additional time to the Respondent or its legal counsel, if any, to appear beginning at 1:30 p.m.), the above numbered and entitled cause (scheduled for 1:30 p.m.) came on for hearing at the Office of the Oklahoma Department of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, Oklahoma 73112.

The State of Oklahoma, ex rel. Oklahoma Department of Consumer Credit (the "Department" or "Petitioner"), was represented by the Department's General Counsel Roy John Martin and the Respondent Pate Painting, Inc., d/b/a Ed's Pawn Shop located at 122 W. Main Street, Norman, Oklahoma 73069 (the "Respondent"), did not appear in person, through a representative or through an attorney, after such Respondent having been served a copy of the Notice and Order of Hearing filed by the Department herein on January 28, 2014 (the "Notice of Hearing"), setting the March 10, 2014, hearing date and time in Case No. 13-0177-DIS, pursuant to the requirements of Article II of the Administrative Procedures Act (the "APA"), 75 O.S. §§

308a-323, by personal service on the Respondent's Representative Aaron Pate, 824 W. Clyde Ave., Vinita, Oklahoma 74301-1310, through a Private Process Server, OK Court Services & Collections, Inc., 313 State Street, Muskogee, Oklahoma 74401, a representative of which named Christy D. Mounger, PS# PSS-13-19, signed a Proof of Service Affidavit attesting to personal service delivery thereof on February 18, 2014.

The Department's General Counsel Roy John Martin, announced that he had not heard from or spoken to the Respondent about its appearance at the hearing in person, through a representative or through an Attorney. On information and belief, Mr. Martin indicated that the Respondent's pawnbroker license had expired, that the Respondent's pawnbroker license had not been renewed, that the Department had learned that Ed Pate of Ed's Pawn Shop may have passed away which is the reason personal service was secured on the Respondent through the Respondent's Representative Aaron Pate in Vinita, Oklahoma, even though there were various items of merchandise visible through the doors and windows at the Respondent's business location at 122 W. Main Street, Norman, Oklahoma 73069. On behalf of the Department, Mr. Martin recommended, among other things, that there be no fine assessed in this matter but that the Respondent, through its default, be found to not be the prevailing party and accordingly the Respondent should be assessed the costs of the Independent Hearing Examiner incurred in this matter as authorized in 59 O.S., § 1528(A). Continuing, Mr. Martin indicated that he wished to secure, in the absence of the Respondent who had an opportunity for a hearing and for whom he had good service, a judgment by default pursuant to 75 O.S. §309(E). Accordingly, the Independent Hearing Examiner announced from the bench that he was taking this matter under advisement.

After reviewing the administrative record of this individual proceeding, having

considered all of the evidence and being fully advised in the premises as to the above matter and reviewing the proposed order filed by Independent Hearing Examiner, Bryan Neal, the Administrator of Consumer Credit issues the following findings, conclusions and orders:

JURISDICTION AND AUTHORITY

1. The Administrator of Consumer Credit is charged with the administration and enforcement of the Oklahoma Pawnshop Act, 59 O.S. §§ 1501 et seq. 59 O.S. § 1512(A) and (B).

2. No person shall engage in business as a pawnbroker without a license from the Administrator specifically authorizing engagement in such business. 59 O.S. § 1503.

3. Every licensee, on or before each December 1, shall pay the Administrator an annual fee for the succeeding calendar year. If the annual fee remains unpaid fifteen (15) days after written notice of delinquency has been given to the licensee by the Administrator, the license shall expire. 59 O.S. § 1506(C).

4. At such times as the Administrator of Consumer Credit may deem necessary, the Administrator or a duly authorized representative of the Administrator may make an examination of the place of business of each licensee and may inquire into and examine the transactions, books, accounts, papers, correspondence and records of such licensee insofar as they pertain to the business regulated by the Oklahoma Pawnshop Act. Such books, accounts, papers, correspondence, records and property taken, purchased or received shall also be open for inspection at any reasonable time to federal law enforcement officials and the chief of police, district attorney, sheriff or written designee of the law enforcement body in whose jurisdiction the pawnshop is located, without any need of judicial writ or other process. In the course of an

examination, the Administrator or duly authorized representative or any authorized peace officer shall have free access to the office, place of business, files, safes and vaults of such licensee, and shall have the right to make copies of any books, accounts, papers, correspondence and records insofar as they pertain to the business regulated by the Oklahoma Pawnshop Act. The Administrator or duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the Administrator is authorized or required by the Oklahoma Pawnshop Act to consider, investigate or secure information. Any licensee who fails or refuses to permit the Administrator or duly authorized representative or any authorized peace officer to examine or make copies of such books or other relevant documents shall thereby be deemed in violation of the Oklahoma Pawnshop Act and such failure or refusal shall constitute grounds for the suspension or revocation of such license. The information obtained in the course of any examination or inspection shall be confidential, except in civil or administrative proceedings conducted by the Administrator, or criminal proceedings instituted by the state. Each licensee shall pay to the Administrator an examination fee. The Administrator may require payment of an examination fee either at the time of initial application, renewal of the license, or after an examination has been conducted. 59 O.S. 1509(A).

5. For the purpose of discovering violations of the Oklahoma Pawnshop Act or of securing information required hereunder, the Administrator or duly authorized representative may investigate the books, accounts, papers, correspondence and records of any licensee or other person who the Administrator has reasonable cause to believe is violating any provision of the Oklahoma Pawnshop Act whether or not such person shall claim to be within the authority or scope of the Oklahoma Pawnshop Act. For the purpose of this section [59 O.S. § 1508(D)], any

person who advertises for, solicits or holds himself out as willing to make pawn transactions, shall be presumed to be a pawnbroker. 59 O.S. § 1508(D).

6. Each licensee shall keep or make available in this state such books and records relating to pawn transactions made under the Oklahoma Pawnshop Act as are necessary to enable the Administrator to determine whether the licensee is complying with the Oklahoma Pawnshop Act. Such books and records shall be consistent with accepted accounting practices. 59 O.S. § 1508(E).

7. Each licensee shall preserve or make available such books and records in this state relating to each of its pawn transactions for four (4) years from the date of the transaction, or two (2) years from the date of the final entry made thereon, whichever is later. Each licensee's system of records shall be accepted if it discloses such information as may be reasonably required under the Oklahoma Pawnshop Act. All agreements signed by customers shall be kept at an office in this state designated by the licensee, except when transferred under an agreement which gives the Administrator access thereto. All credit sales made by a pawnbroker, other than those sales defined in paragraph 6 of Section 1502 of this title [Title 59 of the Oklahoma Statutes], as a pawn transaction, shall be made in accordance with and subject to the provisions of Title 14A of the Oklahoma Statutes. 59 O.S. § 1508(F).

O.S. §§ 308a-323.

FINDINGS OF FACT

The Administrator of Consumer Credit finds that the following facts were proven by clear and convincing evidence:

1. The proceedings in this matter were conducted in accordance with the provisions

of the Oklahoma Pawnshop Act, 59 O.S. §§ 1501 et seq. and Article II of the Administrative Procedures Act, 75 O.S. §§ 308a-323.

2. The Respondent, who did not appear the hearing on March 10, 2014, at 1:30 p.m., in person through a representative or through an attorney, received notice of the hearing in this matter set for March 10, 2014, at 1:30 p.m., by personal service on the Respondent's Representative Aaron Pate, 824 W. Clyde Ave., Vinita, Oklahoma 74301-1310, through a Private Process Server, OK Court Services & Collections, Inc., 313 State Street, Muskogee, Oklahoma 74401, a representative of which named Christy D. Mounger, PS# PSS-13-19, signed a Proof of Service Affidavit attesting to personal service delivery thereof on February 18, 2014.

3. The Respondent is a registered, domestic for profit business corporation with the Oklahoma Secretary of State, filing number 1900390205, with an active trade name of Ed's Pawn Shop.

4. As of January 28, 2014, the Respondent was licensed as a Pawnbroker in the State of Oklahoma, license number PB001024.

5. On July 2, 2013, Vanessa Todd, Senior Consumer Credit Examiner, notified the Respondent, via email at edspawnnorman@yahoo.com, sgt.pepper@sbcglobal.net and pateonline@att.net, that pursuant to Title 59 O.S. §1508, the Petitioner would be conducting an examination at the Respondent's place of business on July 3, 2013 between the hours of 10:00 a.m. and 2:00 p.m.

6. On July 3, 2013 Consumer Credit Examiner Tracy Anderson and Senior Consumer Credit Examiner Vanessa Todd arrived at Ed's Pawn Shop, 122 W. Main Street, Norman, Oklahoma 73069, at 11:00 a.m. to conduct the examination as indicated in the notification to the Respondent. Upon arrival, the business was locked with a letter posted in the

window that read as follows:

> "Thank you for 23 years of support, but I will no longer be pawning. I am still in the area and using this building, just not open on a scheduled basis.
>
> "If you wish to contact me concerning items you have pawned here in the past, please email me at edspawnnorman@yahoo.com and I will make arrangements to meet you here."

7. On July 3, 2013, Consumer Credit Examiner Tracy Anderson posted a Notice to Consumers on the Respondent's business location at 122 W. Main, Norman, Oklahoma 73069, for consumers to contact the Department of Consumer Credit if they had any questions or concerns regarding Ed's Pawn Shop.

8. The Petitioner has received two (2) inquiries from consumers indicating that pawned merchandise was located at the Respondent's business location that needed to be retrieved.

9. As of January 28, 2014, the Petitioner had not received written notification from the Respondent that the Respondent's business location has closed.

CONCLUSIONS OF LAW

The Administrator of Consumer Credit concludes that based on the evidence and testimony in this individual proceeding that:

1. Article II of the Administrative Procedures Act, 75 O.S., §309(E), provides that informal disposition may be made of any individual proceeding by default.

2. The Respondent has violated Title 59 O.S. § 1508 by failing to permit the Administrator or a duly authorized representative of the Administrator to examine and/or make copies of books and records pertaining to the Oklahoma Pawnshop Act.

ORDER

Based upon the findings of fact and conclusions of law in this individual proceeding and based upon the recommendation of the Independent Hearing Examiner, the Administrator of Consumer Credit issues the following orders:

1. The Respondent is hereby found to have been a licensed Pawnbroker in the State of Oklahoma, as of January 28, 2014, that violated 59 O.S. § 1508 by failing to permit the Administrator or a duly authorized representative of the Administrator to examine and/or make copies of books and records pertaining to the Oklahoma Pawnshop Act.

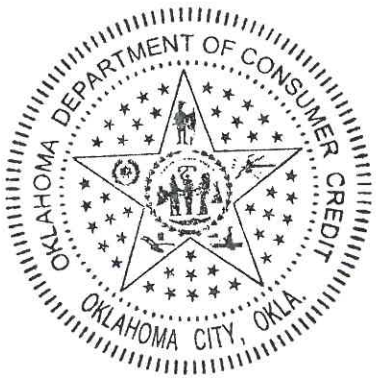
2. As the Respondent is not the prevailing party in this matter, the Respondent shall be assessed the hearing costs, in the amount of Five hundred Twenty Seven Dollars and 81/100 ($527.81), as authorized by 59 O.S., § 1528(A).

3. The Respondent, having been found to have been a licensed Pawnbroker in the State of Oklahoma and violated 59 O.S. § 1508 by failing to permit the Administrator or a duly authorized representative of the Administrator to examine and/or make copies of books and records pertaining to the Oklahoma Pawnshop Act, shall be issued a permanent Cease and Desist Order to immediately cease and desist from offering to engage and/or engaging in the business of making pawn transactions without a license as required under 59 O.S. § 1503 and to permanently continue to so cease and desist until such time, if ever, as the Respondent obtains a license as required under 59 O.S. §1503.

4. The Respondent, through its Representative or otherwise, in light of the expiration and non-renewal of its pawnbroker license and of the Respondent's closure of its doors, shall immediately produce copies of its books and records pertaining to the Oklahoma Pawnshop Act to the Department and/or permit the Administrator or a duly authorized representative of the

Administrator to examine and/or make copies of its books and records pertaining to the Oklahoma Pawnshop Act pursuant to the requirements of 59 O.S. § 1508 wherever situated and to cooperate with the Department in the appropriate identification and disposition of such tangible personal property as was deposited with or otherwise actually delivered into the possession of the Respondent in the course of its business as a licensed pawnbroker properly belonging to persons other than the Respondent, in order to wind up its affairs.

So ordered this 10th day of April, 2014.



Scott Lesher
Administrator of Consumer Credit
State of Oklahoma

AFFIDAVIT OF SERVICE

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA)

Roy John Martin states under oath as follows:

1. I am the attorney for the Petitioner, State of Oklahoma, ex rel., Department of Consumer Credit.

2. On April__, 2014, I mailed a copy of the attached Final Agency Order in case number 13-0177-DIS by certified mail, return receipt requested to the Respondent, Ed's Pawn Shop c/o Aaron Pate, 824 W. Clyde Ave, Vinita, OK 74301.

3. Attached are a copy of the certified mail receipt and return receipt showing the Final Agency Order was accepted at 824 W. Clyde Ave, Vinita, OK 74301on March __, 2014.

_____
Roy John Martin
Affiant

Signed and sworn to (or affirmed) before me on _____ by Roy John Martin.

_____

(Seal, if any)

Title (and Rank) Notary Public

My commission expires:

_____