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IN THE THIRD DISTRICT COURT, SALT LAKE DEPARTMENT  
IN AND FOR THE COUNTY OF SALT LAKE, STATE OF UTAH

State of Utah,

Plaintiff

v.

Twenty-seven thousand seven hundred and eighty dollars and sixty-five cents in US currency in Mountain America Credit Union account ending in 0622; Eight hundred thirty-seven dollars and eleven cents in US currency in Mountain America Credit Union account ending in 6691; One thousand sixty-two dollars and fifty-eight cents in US currency in PayPal account ending in 0001 (account also used by Sportsmans Fastcash); Six thousand seven hundred twenty-six and sixty-nine cents in PayPal account ending in 1013; Five thousand six hundred and seventy-six dollars and ninety-three cents in US currency from Kearns cash register; Fifteen thousand six hundred and sixty-three dollars in US currency from West Jordan cash register; Two thousand five hundred and seven dollars and sixty-six cents in US currency from Riverton cash register; Three thousand six hundred and eighty seven dollars in US currency from Lindon cash register; and all property included in the inventory attached hereto as Exhibit A;

Defendants.

**COMPLAINT FOR CIVIL FORFEITURE**

**(VERIFIED)**

Case No. 180906372

Judge: Su Chon

## **PARTIES, JURISDICTION AND VENUE**

1. Petitioner is the State of Utah, by and through the Utah Attorney General's Office.
2. Petitioner is charged with the enforcement of Utah's Criminal Code pursuant to Utah Code Ann. § 67-5-1 and performed an investigation pursuant to Utah Code Ann. § 77-22-2 with respect to various pawn shops in Salt Lake County and Utah County.
3. On June 19, 2018, pursuant to warrants issued by the Third District Court, Special Agents of the Utah Attorney General's Office seized twenty-seven thousand seven hundred and eighty dollars and sixty-five cents in US currency in Mountain America Credit Union account ending in 0622, as referenced in the caption.
4. On June 19, 2018, pursuant to warrants issued by the Third District Court, Special Agents of the Utah Attorney General's Office seized eight hundred thirty-seven dollars and eleven cents in US currency in Mountain America Credit Union account ending in 6691, as referenced in the caption.
5. On June 19, 2018, pursuant to warrants issued by the Third District Court, Special Agents of the Utah Attorney General's Office seized one thousand sixty-two dollars and fifty-eight cents in US currency in PayPal account ending in 0001, as referenced in the caption. (This account was also used by Sportsmans Fastcash).
6. On June 19, 2018, pursuant to warrants issued by the Third District Court, Special Agents of the Utah Attorney General's Office seized six thousand, seven hundred twenty-six dollars and sixty-nine cents in PayPal account ending in 1013, as referenced in the caption.
7. On June 19, 2018, pursuant to warrants issued by the Third District Court, Special Agents of the Utah Attorney General's Office, with help from local law enforcement, searched the premises of Xtreme Pawn and Xtreme Pawn Outlet, DBAs of Pawn Solutions, Inc.

(hereinafter “Xtreme Pawn”), located at 4089 West 5415 South, Kearns, UT 84118, and seized five thousand, six hundred and seventy-six dollars and ninety-three cents in US currency from the cash register and also seized personal property listed in Exhibit A, as referenced in the caption.

8. On June 19, 2018, pursuant to warrants issued by the Third District Court, Special Agents of the Utah Attorney General’s Office, with help from local law enforcement, searched the premises of Xtreme Pawn, located at 7106 South Redwood Road, West Jordan, Utah 84084, and seized fifteen thousand, six hundred and sixty-three dollars in US currency from the cash register and also seized personal property listed in Exhibit A, as referenced in the caption.
9. On June 19, 2018, pursuant to warrants issued by the Third District Court, Special Agents of the Utah Attorney General’s Office, with help from local law enforcement, searched the premises of Xtreme Pawn, located at 12571 South Pasture Road, Riverton, Utah 84096, and seized two thousand, five hundred and seven dollars and sixty-six cents in US currency from the cash register and also seized personal property listed in Exhibit A, as referenced in the caption.
10. On June 19, 2018, pursuant to warrants issued by the Third District Court, Special Agents of the Utah Attorney General’s Office, with help from local law enforcement, searched the premises of Xtreme Pawn, located at 720 North State Street, Lindon, Utah 84042, and seized three thousand, six hundred and eighty seven dollars in US currency from the cash register and also seized the personal property listed in Exhibit A, as referenced in the caption.

11. Warrants seizing this property were served on June 19, 2018 at the following Xtreme Pawn locations: 4089 W 5415 S Kearns, Utah 84118; 7106 South Redwood Road, West Jordan, Utah 84084; 12571 South Pasture Road, Riverton, Utah 84096; and 720 North State Street Lindon, Utah 84042.
12. Defendant “all property included in the inventory attached hereto as Exhibit A” is property and currency seized from the business premises of the following Xtreme Pawn locations: 4089 W 5415 S Kearns, Utah 84118; 7106 South Redwood Road, West Jordan, Utah 84084; 12571 South Pasture Road, Riverton, Utah 84096; and 720 North State Street Lindon, Utah 84042.
13. Xtreme Pawn was notified of the intent to forfeit by certified mail on July 19, 2018, according to Notice of Forfeiture.
14. The following business entities may have an interest in the subject property sought to be forfeited and were duly served with notice of intent to forfeit on or about July 19, 2018:
  - a. Home Depot Group U.S.A., Inc., a corporation organized under the laws of the State of Delaware (hereinafter “Home Depot”) with its principal place of business in Atlanta, Georgia;
  - b. Lowe’s Companies, Inc., a corporation organized under the laws of the State of North Carolina and operating under the DBA of Lowe’s Home Improvement (hereinafter “Lowe’s”) with its principal place of business in Mooresville, North Carolina;
  - c. Cabela’s, Inc., a corporation organized under the laws of Delaware and operating under the DBA of Cabela’s (hereinafter “Cabela’s”) with its principal place of business in Sidney, Nebraska;

- d. Dick's Sporting Goods, Inc., a corporation organized under the laws of Delaware and operating under the DBA of Dick's Sporting Goods (hereinafter "Dick's") with its principal place of business in Coraopolis, Pennsylvania;
- e. Target Corporation, a corporation organized under the laws of Minnesota and operating under the DBA of Target (hereinafter "Target") with its principal place of business in Minneapolis, Minnesota;
- f. Walmart Stores, Inc., a corporation organized under the laws of Delaware and operating under the DBA of Wal-Mart (hereinafter "Wal-Mart") with its principal place of business is Bentonville, Arkansas;
- g. Shopko Stores Operating Co., LLC, a limited liability company organized under the laws of Delaware and operating under the DBA of Shopko (hereinafter "Shopko") with its principal place of business is Green Bay, Wisconsin;
- h. Harbor Freight Tools USA, Inc., a corporation organized under the laws of California and operating under the DBA of Harbor Freight Tools (hereinafter "Harbor Freight") with its principal place of business is Calabasas, California;
- i. Kroger Co. a corporation organized under the laws of Ohio and operating under the DBA of Smith's Food and Drug Center (hereinafter "Smith's") with its principal place of business in Cincinnati, Ohio;
- j. Guitar Center, Inc., a corporation organized under the law of Delaware and operating under the DBA of Guitar Center (hereinafter "Guitar Center") with its principal place of business in Westlake Village, California;

- k. CVS Caremark Corporation, a corporation organized under the law of Delaware and operating under the DBA of CVS Pharmacy (hereinafter “CVS”) with its principal place of business is in Woonsocket, Rhode Island; and
  - l. Sportsman’s Warehouse Holdings, Inc., a corporation organized under the law Delaware and operating under the DBA of Sportsman’s Warehouse (hereinafter “Sportsman’s Warehouse”) with its principal place of business in Midvale, UT.
  - m. Genuine Parts Company, a corporation organized under the laws of Georgia and operating under the d.b.a. of Napa Auto Parts of Midvale, Napa Auto Parts of Salt Lake City, Napa Auto Parts of Ogden, and Napa Auto Parts of Kearns (collectively hereinafter “Napa Auto Parts”), with its principal place of business in Atlanta, Georgia, may have an interest in the subject property sought to be forfeited and was duly served with notice of intent to forfeit on or about August 23, 2018.
15. The principal places of business for Xtreme Pawn include the following locations: 4089 W 5415 S Kearns, Utah 84118; 7106 South Redwood Road, West Jordan, Utah 84084; 12571 South Pasture Road, Riverton, Utah 84096; and 720 North State Street Lindon, Utah 84042. As such and given that the seized property is within the boundary of Salt Lake County, venue is proper with the above court pursuant to Utah Code Ann. §§ 78B-3-305, 307.
16. This is an *in rem* action for forfeiture of property pursuant to Utah Code Ann. § 24-4-101 et seq. and jurisdiction is proper with the above entitled court pursuant to Utah Code Ann. § 78A-5-102.

### **NATURE OF THE CASE AND RELEVANT FACTS**

#### *Basic Information and Legal Grounds*

17. Xtreme Pawn operates from four locations:

- a. 4089 W 5415 S, Kearns, Utah 84118;
  - b. 7106 South Redwood Road, West Jordan, Utah 84084;
  - c. 12571 South Pasture Road, Riverton, Utah 84096; and
  - d. 720 North State Street Lindon, Utah 84042.
18. Xtreme Pawn and Xtreme Pawn Outlet are DBAs of Pawn Solutions, LLC, according to Utah Department of Commerce, Division of Corporation records.
19. Pawn Solutions, LLC (entity number 8170489-0160) is a limited liability company located at 7106 South Redwood Road, West Jordan, Utah, 84084, Utah Department of Commerce, Division of Corporation records.
20. Principals for Pawn Solutions, LLC include J.A. Gustafson as member, M.R. Jenkins as Registered Agent, and PSMC, Inc. as Manager, Utah Department of Commerce, Division of Corporation records.
21. PSMC, Inc. (entity number 8177731-0142) is a Utah corporation with an address listed of 7106 South Redwood Road, West Jordan, Utah, 84084, Utah Department of Commerce, Division of Corporation records.
22. Principals for PSMC, Inc. include B.A. Jenkins as “Officer #1” and J.A. Gustafson as “Director #1”, according to the PSMC Articles of Incorporation.

*Pawnshops and Secondhand Dealers*

23. Pawnshops and Secondhand Dealers are regulated by the State of Utah under the Pawnshop and Secondhand Merchandise Transaction Information Act (Utah Code Ann. § 13-32a-101 et seq.).

24. Under this act pawnshops and secondhand dealers are defined and their activities when purchasing items from individuals, or loaning money to individuals based on property pledged to them as collateral are regulated.

25. Xtreme Pawn is a pawnshop operated by a pawnbroker according to the definitions provided in Utah Code Ann. § 13-32a-101.

26. A person commits theft if he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds or aids in concealing, selling, or withholding the property from the owner, knowing the property to be stolen, intending to deprive the owner of it.

Utah Code Ann. § 76-6-408(1).

27. Knowledge or belief is presumed in the case of an actor who:

- a. is found in possession or control of other property stolen on a separate occasion;
- b. has received other stolen property within the year preceding the receiving offense charged;
- c. or is a pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains property and fails to require the seller or person delivering the property to:
  - i. certify, in writing, that he has the legal rights to sell the property;
  - ii. provide a legible print, preferably the right thumb, at the bottom of the certificate next to his signature; and
  - iii. provide at least one positive form of identification.

Utah Code Ann. § 76-6-408(2).

28. A person commits the offense of money laundering who: (a) transports, receives, or acquires the property which is in fact proceeds of the specified unlawful activity, knowing that the property involved represents the proceeds of some form of unlawful activity; (b) makes proceeds of unlawful activity available to another by transaction, transportation, or other means, knowing that the proceeds are intended to be used for the purpose of continuing or furthering the commission of specified unlawful activity; (c) conducts a transaction knowing the property involved in the transaction represents the proceeds of some form of unlawful activity with the intent: (i) to promote the unlawful activity; (ii) to conceal or disguise the nature, location, source, ownership, or control of the property; or (iii) to avoid a transaction reporting requirement under this chapter or under federal law; or (d) knowingly accepts or receives property which is represented to be proceeds of unlawful activity.

29. Property that has been used to facilitate the commission of a federal or state criminal offense and any proceeds of criminal activity is subject to forfeiture. Utah Code Ann. § 24-4-102(1).

*Xtreme Pawn's History of Receiving Stolen Property*

30. Xtreme Pawn has been found in possession of stolen property on separate occasions <sup>1</sup>, and/or has received stolen property within one year of the filing hereof including, but not limited to, the following incidents:

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<sup>1</sup> Although now statutorily codified, the Utah Supreme Court long ago recognized that being in possession of stolen property on other, unrelated occasions was admissible on the issue of intent stating in *State v. Zeman*, 63 Utah 422, 22 P. 465, 466-67 (1924):

(1) It is immaterial whether in the other instances a knowing possession is shown. It is the mere fact of the repeated possession of other stolen goods that lessens the chances of innocence. (2) It is immaterial that the other goods were similar in kind to those charged, or were received from the same person. On the contrary, the greater the variety of goods \*467 and of the sources they came from, the more striking

- a. Receiving a stolen stroller, according to Lindon Police Department Report # 17LI02296 (2/18/17);
- b. Receiving a stolen drill, according to West Jordan Police Department Report #17H016286 (9/29/17);
- c. Receiving a stolen Venetia hover board and a stolen Venetia longboard, according to West Jordan Police Department Report #17H007160 (5/11/2017);
- d. Receiving a stolen mountain bike, according to West Jordan Police Department Report #17H005714 (4/11/17);
- e. Receiving a stolen saddle, according to West Jordan Police Department Report #17H003098 (5/17/16);
- f. Receiving a shoplifted Home Depot saw, according to West Jordan Police Department Report #17H001953 (1/04/2017);
- g. Receiving a stolen Yamaha stroke outboard motor and a stolen Milwaukee Sawzall, according to West Jordan Police Department Report #15H010419 (6/18-7/15/15);
- h. Receiving a stolen firearm, according to West Jordan Police Department Report #15H004618(8/10-8/20/14);
- i. Receiving seven stolen rings, according to West Jordan Police Department Report #13H013115 (04/12/13);

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the coincidence, and the more difficult to believe the explanation is an innocent one. (3) It is immaterial whether the other possessions occurred before or after the possession charged; it is the multiplication of instances that affects our belief, and not the time of their occurrence, provided the time is not so distant as to be accountable for on the theory of chance acquisition.”

These conclusions are supported by numerous cases. Buechert v. State, 165 Ind. 523, 76 N. E. 111, 6 Ann. Cas. 914; State v. Cohen, 254 Mo. 437, 162 S. W. 216, Ann. Cas. 1915C, 86; Commonwealth v. McGarvey, 158 Ky. 570, 165 S. W. 973; Jeffries v. United States, 7 Ind. T. 47, 103 S. W. 761; State v. Baker, 84 W. Va. 151, 99 S. E. 252; State v. Boyd, 195 Iowa, 1091, 191 N. W. 84.

- j. Receiving a stolen yellow gold woman's ring, according to West Jordan Police Department Report #09H012460 (6/19/09);
- k. Receiving a stolen rifle, according to West Jordan Police Department Report #09H008054 (2/16/08); and
- l. Receiving a stolen Toshiba Notebook laptop computer, according to West Jordan Police Department Report #09H005196 (3/24/-4/03/09).

*Suspicious Sales of New Products on eBay*

- 31. PayPal is a service utilized to receive and make payments for purchases through the eBay platform.
- 32. eBay.com is an online "commerce platform" that provides individuals and companies an internet-based marketplace to sell goods and services.
- 33. eBay employs several investigators to monitor their website for criminal activity, according to a report obtained by eBay.
- 34. When a company selling on eBay is identified as a second-hand dealer or pawn shop selling a significant volume of product, and they list over ten (10) percent of their products as new, eBay investigators may monitor their activity and report it to law enforcement.
- 35. Xtreme Pawn previously advertised on their own webpage that they sell products on eBay.com and their webpage included a link to an eBay.com account, using user name Xtreme-pawn, according to <https://www.xtremepawn.com/>.
- 36. eBay investigators identified three additional user names associated with Xtreme Pawn: Xtremepawnxp4, Darrenjva, and Clsgooddeal according to a report obtained by eBay.
- 37. Xtreme Pawn's eBay accounts produced a total of \$807,846.61 in sales from January 1, 2015 to April 25, 2018, according to a report by obtained by eBay.

38. Xtreme Pawn primarily utilized a PayPal account ending in 1013 to transact and receive proceeds for business conducted through eBay.

39. Xtreme Pawn's "new-in-the-box" sales accounted for fifty-eight (58) percent, or \$471,473.79, of Xtreme Pawn's eBay sales from January 1, 2015 to April 25, 2018, according to a report obtained by eBay.

#### *Suspicious In-Store Transactions*

40. According to the Statewide Central Pawn Database (hereinafter "pawn database"), the following individuals were found to regularly conduct suspicious transactions at Xtreme Pawn:

a. Nathan Orencole:

- i. Orencole has an extensive history of selling/pawning items to various pawn shops within the state of Utah.
- ii. Orencole's criminal history includes multiple convictions for burglary, retail theft, and theft by deception, according to Utah Criminal Justice Information System records.
- iii. Orencole's work history shows he earned a reported \$199.00 for 2017 and no employment was reported the first quarter of 2018, according to the Department of Workforce Services.
- iv. From January 1, 2017 to April 24, 2018, Orencole sold or pawned a total of 375 items.
  - i. Orencole sold or pawned 220 items to Xtreme Pawn in Kearns within, with many of the sales occurring on the same or consecutive days.

- ii. Orencole sold or pawned 7 items to Xtreme Pawn in West Jordan.
    - iii. Orencole sold or pawned 148 items to other pawn shops that are not directly related to Xtreme Pawn.
  - v. Most of the items Orencole sold are tools or electronics.
- b. Amber Chandler
  - i. Chandler's criminal history includes ten convictions for retail theft as well as convictions for forgery, fraudulent use of credit cards, and identity theft, according to Utah Criminal Justice Information System records.
  - ii. Chandler has not reported any employment since 2013, according to the Department of Workforce Services.
  - iii. From February 13, 2017 to October 22, 2017, Chandler sold or pawned a total of 237 items.
    - i. Chandler sold or pawned 111 items to Xtreme Pawn in West Jordan.
    - ii. Chandler sold or pawned 73 items to the Xtreme Pawn location in Riverton.
    - iii. Chandler sold or pawned 34 items to the Xtreme Pawn location in Kearns.
    - iv. Chandler sold or pawned 10 items to the Xtreme Pawn location in Lindon.
- c. Eric Baker:
  - i. Baker's criminal history includes multiple convictions for retail theft as well as convictions for burglary and identity fraud, according to Utah Criminal Justice Information System records.

- ii. Baker reported \$1,316.00 for 2017 and no work history was reported for the first quarter of 2018, according to the Department of Workforce Services.
- iii. From January 1, 2017 to January 5, 2018, Baker sold or pawned a total of 392 items.
  - i. Baker sold or pawned 159 items to the Xtreme Pawn location in West Jordan.
  - ii. Baker sold or pawned 147 items to the Xtreme Pawn location in Kearns.
  - iii. Baker sold or pawned 86 items to other pawn shops that are not directly related to Xtreme Pawn.

d. Lonnie Sumlin:

- i. Sumlin's criminal history includes twelve convictions for retail theft, according to Utah Criminal Justice Information System records.
- ii. Sumlin has not reported employment since 2007, according to the Department of Workforce Services.
- iii. From January 8, 2017 to April 30, 2018, Sumlin sold or pawned a total of 327 items.
  - i. Sumlin sold or pawned 302 items to the Xtreme Pawn location in Kearns.
  - ii. Sumlin sold or pawned 25 items to other pawn shops that are not directly related to Xtreme Pawn.

e. Durell Christy:

- i. Christy's criminal history includes multiple convictions for retail theft, according to Utah Criminal Justice Information System records.
- ii. Christy has not reported employment since 2014, according to the Department of Workforce Services.
- iii. From January 2, 2017 to May 3, 2018, Christy sold or pawned a total of 303 items.
  - i. Christy sold or pawned 178 items to the Xtreme Pawn location in West Jordan.
  - ii. Christy sold or pawned 79 items to the Xtreme Pawn location in Kearns.
  - iii. Christy sold or pawned 46 items to other pawn shops that are not directly related to Xtreme Pawn.

*Undercover Sales of "New-in-the-Box" Product*

41. Between July 28, 2015 and August 20, 2015 Utah County Major Crimes, in conjunction with West Jordan Police, did a series of sting operations whereby power tools were sold on numerous occasions which had the security "spider wire" still on the new-in-the-box items. In each instance the Xtreme pawn store employees purchased the merchandise. In one recorded instance the spider wire security alarm was found in the dumpster behind the store still beeping.
42. From March 8, 2018 to June 6, 2018, undercover investigators (hereinafter "UC") with the Utah Attorney General's Office, and other assisting law enforcement personnel, conducted forty-three (43) successful sales transactions of "new-in-the-box" items with Xtreme Pawn.

- a. On March 8, 2018, the UC sold two (2) identical new-in-the-box Dremell accessory kits to Xtreme Pawn in West Jordan.
  - i. The UC entered Xtreme Pawn at 7106 S Redwood Road, contacted the store clerks, presented the two (2) new accessory kits, and offered the items up for sale.
  - ii. The UC presented a driver's license which listed his residence as the local homeless shelter located at 210 S Rio Grande Street.
  - iii. The clerk completed the paper work and gave the UC \$5.00 per accessory kit.
  - iv. Each Dremell accessory kit is sold at Home Depot for approximately \$29.97, according to <https://www.homedepot.com>.
  - v. Xtreme Pawn probably knew the property was stolen because it was new and therefore able to be returned to the retailer but was sold for a fraction of its retail price.
  - vi. The clerk did not ask the UC for a receipt or proof of purchase.
  - vii. The clerk did not ask the UC for an explanation for why the items were unused.
  - viii. The clerk did not ask the UC for an explanation for why multiple new-in-the-box items were being sold at the same time.
  - ix. The clerk did not ask the UC how the property was acquired.
- b. On March 15, 2018, the UC sold two (2) identical new-in-the-box Milwaukee M18 18-Volt Batteries and one (1) Milwaukee ¼" impact driver kit to Xtreme Pawn in West Jordan.

- i. The UC entered Xtreme Pawn at 7106 S Redwood Road, contacted the store clerks, presented the two (2) new batteries and one (1) new impact driver kit, and offered the items up for sale.
  - ii. The UC presented a driver's license which listed his residence as the local homeless shelter located at 210 S Rio Grande Street.
  - iii. The clerk completed the paper work and gave the UC \$17.00 per battery and \$40 for the impact driver kit.
  - iv. Each battery is sold at Home Depot for approximately \$79.00, according to <https://www.homedepot.com>.
  - v. The impact driver kit is sold at Home Depot for approximately \$129.00, according to <https://www.homedepot.com>.
  - vi. Xtreme Pawn probably knew the property was stolen because it was new and therefore able to be returned to the retailer but was sold for a fraction of its retail price.
  - vii. The clerk did not ask the UC for a receipt or proof of purchase.
  - viii. The clerk did not ask the UC for an explanation for why the items were unused.
  - ix. The clerk did not ask the UC for an explanation for why multiple new-in-the-box items were being sold at the same time.
  - x. The clerk did not ask the UC how the items were acquired.
- c. On March 21, 2018, a UC sold one (1) new-in-the-box Milwaukee M12 combo kit and one (1) Milwaukee M18 impact wrench to Xtreme Pawn in West Jordan.

- i. The UC entered Xtreme Pawn at 7106 S Redwood Road, contacted the store clerks, presented the combo kit and impact wrench, and offered the items up for sale.
- ii. One of the combo kits and the impact wrench had a security device (spider wire) attached.
- iii. The UC presented a driver's license which listed his residence as the local homeless shelter located at 210 S Rio Grande Street.
- iv. The clerk completed the paper work and gave the UC \$40.00 for the combo kit and \$50.00 for the wrench.
- v. The combo kit is sold at Home Depot for approximately \$149.00, according to <https://www.homedepot.com>.
- vi. The impact wrench is sold at Home Depot for approximately \$169.00, according to <https://www.homedepot.com>.
- vii. Xtreme Pawn probably knew the property was stolen because it was new and therefore able to be returned to the retailer but was sold for a fraction of its retail price.
- viii. The clerk did not ask the UC for a receipt or proof of purchase.
- ix. The clerk did not ask the UC for an explanation for why the items were unused.
- x. The clerk did not ask the UC for an explanation for why the items had security devices attached.
- xi. The clerk did not ask the UC for an explanation for why multiple new-in-the-box items were being sold at the same time.

- xii. The clerk did not ask the UC how the property was acquired.
- d. On April 18, 2018 the UC sold two (2) “new-in-the-box” same model Makita drill sets to Xtreme Pawn in Riverton.
  - i. The UC entered Xtreme Pawn at 12571 South Pasture Road, contacted the store clerks, presented the drill sets, and offered the items up for sale.
  - ii. The clerk completed the paper work and gave the UC a total of \$40.00 for the drills.
  - iii. The Makita drill set is sold at Home Depot for approximately \$119.00, according to <https://www.homedepot.com>.
  - iv. Xtreme Pawn probably knew the property was stolen because it was new and therefore able to be returned to the retailer but was sold for a fraction of its retail price.
  - v. The clerk did not ask the UC to explain the absence of a receipt or proof of purchase.
  - vi. The clerk did not ask the UC to explain why two (2) identical new drill sets were being sold at the same time.
  - vii. The clerk did not ask the UC how the property was acquired.
- e. On April 18, 2018, the UC sold two (2) “new-in-the-box” same model Dewalt cordless drills to Xtreme Pawn in Lindon.
  - i. The UC entered Xtreme Pawn at 720 North State Street, contacted the store clerks, presented the drill sets, and offered the items up for sale.
  - ii. The clerk generated a pawn ticket and gave the UC a total of \$80.00 for both drills.

- iii. The Dewalt cordless drill is sold at Home Depot for approximately \$159.00, according to <https://www.homedepot.com>.
  - iv. Xtreme Pawn probably knew the property was stolen because it was new and therefore able to be returned to the retailer but was sold for a fraction of its retail price.
  - v. The clerk did not ask the UC to explain the absence of a receipt or proof of purchase.
  - vi. The clerk did not ask the UC to explain why two (2) identical new drills were being sold at the same time.
  - vii. The clerk did not ask the UC how the items were acquired.
- f. On April 18, 2018, the UC sold two (2) “new-in-the-box” Milwaukee tool combo kit and one (1) Milwaukee impact wrench to Xtreme Pawn in Kearns.
- i. The UC entered Xtreme Pawn at 4089 W 5415 S, contacted the store clerks, presented the tool combination sets, and offered the items up for sale.
  - ii. The clerk generated a pawn ticket and gave the UC a total of \$75.00 for both items.
  - iii. The Milwaukee combo tool kit is sold at Home Depot for approximately \$149.00, according to <https://www.homedepot.com>.
  - iv. The Milwaukee impact wrench is sold at Home Depot for approximately \$169.00, according to <https://www.homedepot.com>.
  - v. Xtreme Pawn probably knew the property was stolen because it was new and therefore able to be returned to the retailer but was sold for a fraction of its retail price.

- vi. The clerk did not ask the UC to explain the absence of a receipt or proof of purchase.
  - vii. The clerk did not ask the UC to explain why two (2) identical new tool combination sets were being sold at the same time.
  - viii. The clerk did not ask the UC how the items were acquired.
- g. On April 26, 2018, the UC sold two (2) “new-in-the-box” Makita cordless drill sets to Xtreme Pawn in West Jordan.
- i. The UC entered Xtreme Pawn at 7106 South Redwood Road, contacted the store clerks, presented the drill sets, and offered the items up for sale.
  - ii. The clerk generated a pawn ticket and gave the UC \$65.00 for each drill set.
  - iii. Each Makita cordless drill set is sold at Home Depot for approximately \$199.00, according to <https://www.homedepot.com>.
  - iv. Xtreme Pawn probably knew the property was stolen because it was new and therefore able to be returned to the retailer but was sold for a fraction of its retail price.
  - v. The clerk did not ask the UC to explain the absence of a receipt or proof of purchase.
  - vi. The clerk did not ask the UC to explain why two (2) identical new drill sets were being sold at the same time.
- h. On April 26, 2018, the UC sold two (2) “new-in-the-box” same model Milwaukee impact tool combination sets to Xtreme Pawn in Lindon.
- i. The UC entered Xtreme Pawn at 720 North State Street, contacted the store clerks, presented the combination sets, and offered the items up for sale.

- ii. The clerk completed the paper work and gave the UC \$70.00 for each drill.
  - iii. Each Milwaukee tool combination set is sold at Home Depot for approximately \$179.00, according to <https://www.homedepot.com>.
  - iv. Xtreme Pawn probably knew the property was stolen because it was new and therefore able to be returned to the retailer but was sold for a fraction of its retail price.
  - v. During the transaction, another patron at Xtreme Pawn offered to purchase the combination sets and got into a verbal altercation with the clerk.
  - vi. The clerk did not ask the UC to explain the absence of a receipt or proof of purchase.
  - vii. The clerk did not ask the UC to explain why two (2) identical Milwaukee tool combination sets were being sold at the same time.
  - viii. The clerk did not ask the UC how the items were acquired.
- i. On April 26, 2018, the UC sold two (2) “new-in-the-box” same model Dewalt cordless drills to Xtreme Pawn in Kearns.
- i. The UC entered Xtreme Pawn at 4089 W 5415 S, contacted the store clerks, presented the drill sets, and offered the items up for sale.
  - ii. The clerk generated a pawn ticket and gave the UC \$60.00 for each drill.
  - iii. Each Dewalt cordless drill is sold at Home Depot for approximately \$179.00, according to <https://www.homedepot.com>.
  - iv. Xtreme Pawn probably knew the property was stolen because it was new and therefore able to be returned to the retailer but was sold for a fraction of its retail price.

- v. The clerk did not ask the UC to explain the absence of a receipt or proof of purchase.
  - vi. The clerk did not ask the UC to explain why two (2) identical new drills were being sold at the same time.
- j. On April 27, 2018, the UC sold two (2) “new-in-the-box” same model Dewalt drill sets to Xtreme Pawn in Kearns.
- i. The UC entered Xtreme Pawn at 4089 W 5415, contacted the store clerks, presented the drill sets, and offered the items up for sale.
  - ii. The UC asked the clerk for \$100.00 for each drill set, but the clerk offered to purchase each drill set for \$35.00.
  - iii. The clerk completed the paper work and gave the UC \$35.00 for each drill set.
  - iv. The drill set is sold at Home Depot for approximately \$179.00, according to <https://www.homedepot.com>.
  - v. Xtreme Pawn probably knew the property was stolen because it was new and therefore able to be returned to the retailer but was sold for a fraction of its retail price.
  - vi. The UC then informed the clerk that there were more drill sets in the UC’s vehicle.
  - vii. The clerk stated that the UC should take the additional drill sets to the Xtreme Pawn West Jordan location.
  - viii. The clerk did not ask the UC to explain the absence of a receipt or proof of purchase.

- ix. The clerk did not ask the UC to explain why two (2) identical new drills were being sold at the same time.
- x. The clerk did not ask the UC to explain why there were more new drill sets in the UC's vehicle.
- xi. The clerk did not ask the UC how the items were acquired.
- k. On April 27, 2018, the UC sold two (2) "new-in-the-box" same model Dewalt drill sets to Xtreme Pawn in West Jordan.
  - i. The UC entered Xtreme Pawn at 7106 South Redwood Road, contacted the store clerks, presented the drill sets, and offered the items up for sale.
  - ii. The UC asked the clerk for \$100.00 for each drill set, but the clerk offered to purchase each drill set for \$60.00.
  - iii. The clerk generated a pawn ticket and gave the UC \$60.00 for each drill set.
  - iv. Each drill set is sold at Home Depot for approximately \$179.00, according to <https://www.homedepot.com>.
  - v. Xtreme Pawn probably knew the property was stolen because it was new and therefore able to be returned to the retailer but was sold for a fraction of its retail price.
  - vi. The clerk did not ask the UC to explain the absence of a receipt or proof of purchase.
  - vii. The clerk did not ask the UC to explain why two (2) identical new drills were being sold at the same time.
  - viii. The clerk did not ask the UC how the items were acquired.

### *Seizure of Defendant Property*

43. On June 18, 2018, warrants were signed for the search and seizure of all “new-in-the-box” items from Xtreme Pawn’s premises and seizure of all funds in all bank accounts associated with Xtreme Pawn, according to the Utah Court Xchange.
44. On June 19, 2018, officers with the AG’s office seized defendants “Twenty-four thousand, two hundred and thirty-three dollars and twenty cents in US currency in America First Credit Union account ending in 873-4; Twenty-five dollars in US currency in America First Credit Union account ending in 8718; Five thousand, nine hundred and ninety-three dollars in US currency from cash register; and all property included in the inventory attached hereto as Exhibit A.”
45. A person commits theft if he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds or aids in concealing, selling, or withholding the property from the owner, knowing the property to be stolen, intending to deprive the owner of it.
- Utah Code Ann. § 76-6-408(1).
- a. Xtreme Pawn is presumed to have knowledge or belief that the property received was stolen, according to Utah Code Ann. § 76-6-408(2).
    - i. Knowledge or belief that property is stolen may be presumed in the case of an actor who is found in possession or control of other property stolen on a separate occasion. *See id.*
    - ii. Xtreme Pawn was found in possession or control of other property stolen on a separate occasion. *See supra* ¶ 30.

- b. Xtreme Pawn is presumed to have knowledge or belief that the property received was stolen, according to Utah Code Ann. § 76-6-408(2).
    - i. Knowledge or belief that property is stolen may be presumed in the case of an actor who has received other stolen property within the year preceding the receiving offense charged. *See id.*
    - ii. Xtreme Pawn has received other stolen property within the year preceding the receiving offense charged. *See supra* ¶ 30.
  - c. Xtreme Pawn knew or should have known that the “new-in-the-box” property sold by UCs was stolen.
  - d. That the principals of Xtreme Pawn are using said d/b/a and/or Pawn Solutions, Inc., as an enterprise for the purpose of deriving proceeds through a pattern or unlawful activity, including but not limited to, receiving stolen property as aforementioned, and that the subject property is the proceeds of said unlawful activity used to further operate the enterprise, in violation of Utah Code Ann. §76-10-1603, a second degree felony (which is further subject to enhancement pursuant to Utah Code Ann. § 76-3-203.1 to a first degree felony).
  - e. That the subject cash and bank account funds/proceeds of the business activity have been knowingly received as the proceeds of illegal activity in violation of Utah Code Ann. § 76-10-1903.
46. The seized property sought to be forfeited herein is property that has been used to facilitate the commission of a state criminal offense and as such is subject to forfeiture pursuant to Utah Code Ann. § 24-4-102.

WHEREFORE, Plaintiff prays for Judgement as follows:

1. Forfeiture of “Twenty-seven thousand, seven hundred and eighty dollars and sixty-five cents in US currency in Mountain America Credit Union account ending in 0622; Eight hundred thirty-seven dollars and eleven cents in US currency in Mountain America Credit Union account ending in 6691; One thousand sixty-two dollars and fifty-eight cents in US currency in PayPal account ending in 0001(also used by Sportsmans Fast Cash); Six thousand, seven hundred twenty-six and sixty-nine cents in PayPal account ending in 1013; Five thousand, six hundred and seventy-six dollars and ninety-three cents in US currency from Kearns cash register; Fifteen thousand, six hundred and sixty-three dollars in US currency from West Jordan cash register; Two thousand, five hundred and seven dollars and sixty-six cents in US currency from Riverton cash register; Three thousand, six hundred and eighty seven dollars and eleven cents in US currency from Lindon cash register; and all property included in the inventory attached hereto as Exhibit A” for disposition and allocation pursuant to Utah Code Ann. § 24-4-115; and
2. If this action is contested, awarding to the State its costs and attorney’s fees pursuant to Utah Code Ann. § 78B-5-825 to the extent any claim or defense is proven to have been made or presented in bad faith; and
3. For such other and further relief as may be appropriate.

DATED this 31<sup>st</sup> day of August, 2018.

SEAN D. REYES  
Utah Attorney General

/s/ Steven A. Wuthrich  
STEVEN A. WUTHRICH  
JANISE K. MACANAS  
Assistant Attorneys General

**VERIFICATION**

STATE OF UTAH            )  
  :SS  
COUNTY OF SALT LAKE)

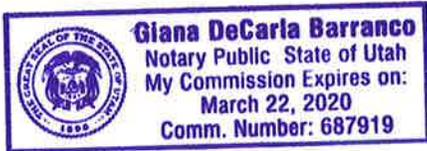
James Russell, first being duly sworn, states as follows:

1. I am a Special Agent for the Investigation Division of the Utah Attorney General's Office and have been assigned to work on this case involving Xtreme Pawn and Xtreme Pawn Outlet, DBAs of Pawn Solutions, Inc. a Utah corporation.
  
2. I have read the foregoing Complaint for Civil Forfeiture and the allegations of fact contained therein are true and correct to the best of my knowledge, information and belief.

DATED this 30<sup>th</sup> day of August, 2018.

  
SPECIAL AGENT JAMES RUSSELL

Subscribed and sworn to before me this 30 day of August, 2018.



  
NOTARY PUBLIC