DEPARTMENT OF LABOR *
LICENSING AND REGULATION
*

v. *

* CASE NOS.: SPMG 10-0053
SPMG 10-0059

JOHN GREGG SHMERLER *
dba Radcliffe Jewelers
*

*
Respondent *

* * * * * * * * * * * * *

CONSENT ORDER

This matter comes before the Maryland Department of Labor, Licensing and Regulations ("Department") as a result of complaints filed by Laura Tapp of the Baltimore County Police Department. Upon a review of the complaint, the Department has determined that administrative charges against John Gregg Shmerler, dba Radcliffe Jewelers (the "Respondent") be filed and an administrative hearing should be held. In an effort to resolve this matter without a formal hearing, the Respondent and the Department have agreed to enter into this Consent Order as the final settlement of this matter.

THE PARTIES AGREE AND STIPULATE:

1. At all times relevant to the matters set forth this Consent Order, the Department had jurisdiction over the subject matter and the Respondent.

2. The secondhand precious metal object dealer's license for Radcliffe Jeweler's expired on May 5, 2009.

4. On December 22, 2009 the Respondent acquired a secondhand precious metal object in "Transaction No. 1630".

5. On December 24, 2009 the Respondent faxed a copy of Transaction No. 1630 to the Baltimore County Police Department.

6. The Respondent did not electronically file Transaction No.1630 with the Baltimore County Police Department until January 6, 2010.

7. On December 29, 2009, the Respondent acquired a Ladies Rolex watch in Transaction No. 1641, which was faxed to the Baltimore County Police Department.

8. The Respondent did not file Transaction No.1641 with the Baltimore County Police Department until January 12, 2010.

9. The Respondent acquired secondhand precious metal objects from the public through 36 transactions during the period August 8, 2009 and January 11, 2010 without a license.

11. The Respondent filed an application for reinstatement of his secondhand precious metal object dealer's license on January 12, 2010.

12. The Respondent knew or should have known that he was required to maintain a valid license in order to obtain secondhand precious metal objects from the public.

13. The Respondent knew or should have known of the requirements to file transaction reports to the Baltimore County Police Department that he was required to maintain a valid license in order to obtain secondhand precious metal objects from the public.

14. Based on the aforementioned facts, the Respondent acknowledges that he has violated Respondent has violated Business Regulation Article §12-201 (a) and 12-304 (a) and (b) Annotated Code of Maryland and Code of Maryland Regulations COMAR 09.25.01.01 A. and B.

> **§12–201. License Required**
>
> (a) *In general* - Except as otherwise provided in this title, an individual shall have a license before the individual does business as a dealer in the State.
>
> **§ 12-304. Copies to primary law enforcement units**
>
> *(a) In general.* - (1) A dealer shall submit a copy of the required information from each record to the primary law enforcement unit in accordance with subsection (b) of this section.
>
> (b) The dealer shall submit the records by transmitting the required information from the records electronically, in a format acceptable to the receiving law enforcement unit, by Noon of the next business day.
>
> **COMAR 09.25.01.01 License Required**
>
> A. Individuals engaged in the business of buying, acquiring, or trading commercially with members of the public in secondhand precious metals are required to be

licensed as dealers unless specially exempt under Business Regulation Article, § 12-102, Annotated Code of Maryland.

B. Each of the following individuals, when engaged in the secondhand precious metals business, shall be licensed as dealers:

(1) In a sole proprietorship, the owner shall be licensed as a dealer;

(2) In a partnership, each partner shall be licensed as a dealer;

(3) In a corporation whose stock is not publicly traded on one of the stock exchanges, the individual who owns the controlling interest in the corporation shall be licensed as a dealer;

(4) In a corporation whose stock is publicly traded, the individual who is the manager of the shop which deals in secondhand precious metals shall be licensed as a dealer.

15. Based on the aforementioned violation, the Respondent agrees to pay to the Department a civil penalty of $ 500.00 upon the Respondent's execution of this Consent Order.

16. The Respondent further agrees that he shall abide by the provisions of the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act, § 12-101 et. seq. and COMAR 09.25.01, et. seq.

17. The Respondent, by entering into this Consent Order, expressly waives the right to have the pending allegations by the Department reduced to written charges, the right to an administrative hearing on the charges and the making of Findings of Fact and Conclusions of Law, and any all further proceeding before the Department to which the Respondent may be entitled to in this matter, and any rights to appeal from this Order.

18. The Respondent enters into this Consent Order freely, knowingly and voluntarily.

BASED ON THESE STIPULATIONS, IT IS, THIS 4th DAY OF March, 2010, BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION:

ORDERED that the Respondent has violated Business Regulation Article §12-201 (a) and 12-304 (a) and (b) Annotated Code of Maryland and Code of Maryland Regulations COMAR 09.25.01.01 A. and B.

ORDERED that the Respondent is, hereby, reprimanded;

ORDERED that the Respondent cease the acquisition of second hand precious metal objects until duly licensed by the Department.

ORDERED that the Respondent be assessed a civil penalty of $500.00 for the violations, which amount is to payable to the Department upon the Respondent's execution of this Consent Order and Settlement Agreement, and it is further

ORDERED that the Department's records and publications reflect the violation and the civil penalty of $500.00 imposed on the Respondent.

John Gregg Shmerler

Leonard J. Howie, III
Deputy Secretary
MARYLAND DEPARTMENT OF LABOR,
LICENSING AND REGULATION

3-3-10
Date