DEPARTMENT OF LABOR
LICENSING AND REGULATION

v.

CASE NO.: SPMG 10-0092

JAMES SCOTT ACCINELLI
dba Accinelli Jewelers

Respondent

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

CONSENT ORDER

This matter comes before the Maryland Department of Labor, Licensing and Regulations ("Department") as a result of a complaint filed by the Anne Arundel County Police Department Pawn and Precious Metal Squad. Upon a review of the complaint, the Department has determined that administrative charges against James Scott Accinelli dba Accinelli 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 Respondent obtained a license as a secondhand precious metal object dealer dba Accinelli Jewelers, 600 Baltimore Annapolis Boulevard, Severna Park, Maryland 21146 on October 21, 2009.

3. On March 10. 2010 members of the Anne Arundel County Police Department Pawn and Precious Metal Squad sold secondhand precious metal objects to the Respondent to determine the Respondent's compliance with the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act., Title 12, Business Regulation Article.

4. The Respondent acquired the following items from Detective Robert Gibson, of the Anne Arundel County Police Department Pawn and Precious Metal Squad:

(a) A woman's 10 karat yellow gold ring with 25 diamond chips
(b) A woman's 10 karat yellow gold "S" design ring with 5 round diamond chips;
(c) A woman's 14 karat yellow gold ring with 14 round diamond chips; and
(d) A 21-inch women's 14 karat yellow gold rope necklace.

5. The Respondent instructed Detective Gibson to sign a daily transaction form that did not provide description of the items and did not assign a transaction number to this transaction.

6. On March 15, 2010, at approximately 1:00 PM, Detective Gibson checked the incoming mail to ascertain whether the Respondent filed a paper transaction report form associated with the March 10, 2010 transaction and determined that the Respondent did not report the transaction by mail.

7. On March 15, 2010, Detective Gibson also checked the Regional Automated Property Information Database to determine if the transaction had been filed and determined that the Respondent had not filed the transaction electronically.

8. On March 15, 2010 Detective Gibson returned to the Respondent's place of business to inquire as to the reason that the Respondent had not filed a transaction report. The Respondent advised Detective Gibson, "I took the sheet home and forgot about it."

9. The Respondent acknowledges that although he was able to return the secondhand precious metal objects to Detective Gibson, he could not provide a written record of the transaction.

10. The Respondent acknowledges that as of March 15, 2010, he had not displayed his secondhand precious metal object dealer's and pawnbrokers at his place of business.

11. The Respondent acknowledges that as of March 15, 2010, he had not registered the scale used to weigh secondhand precious metal objects that he acquired with the Maryland Department of Agriculture.

12. Based on the aforementioned facts, the Respondent acknowledges that he has violated Business Regulation Article, §§12-208, 12-301 (a), (d), and (e), 12-302 (a) (1)-(6), Annotated Code of Maryland; and Code of Maryland Regulations COMAR 09.25.02.02, which state:

> **§ 12-208. Display of license.**
>
> Each licensee shall display the license conspicuously in the place of business of the licensee.

§ 12-301. Required records.

(a) *Records of dealers.* - Each dealer shall make a written record, on a form provided by the Secretary, of each business transaction that involves the acquisition of a secondhand precious metal object when the transaction is made.

(d) *Separate entries.* - A separate record entry shall be made for each item involved in a transaction. However, items in a matching set may be recorded as a set if acquired in a single transaction.

(e) *Tagging and numbering of items.* - The dealer shall tag each item individually with a number that corresponds to the transaction under which it was acquired. However, items acquired in a matching set may be tagged as a set.

§12–302. Contents of Records

(a) In addition to any other information required by the Secretary, the records of a dealer shall include:

(1) the date, place, and time of each transaction that involves the acquisition of a precious metal object;
(2) the name and address of the principal, if the transaction is by an agent;

(3) a description of the precious metal object, including:

(i) its approximate metallic composition;

(ii) any jewels, stones, or glass parts;

(iii) any mark, number, word, or other identification on the precious metal object;

(iv) its weight, if payment is based on weight;

(v) a statement whether it appears to have been altered by any means, including

1. obscuring a serial number or identifying feature;

2. melting; or

3. recutting a gem; and

(vi) the amount paid or other consideration;

4) for each individual from whom the dealer acquires a precious metal object:

(i) the name, date of birth, and driver's license number of the individual; or

(ii) identification information about the individual that:

1. positively identifies the individual from at least 2 forms of identification, which may include an age of majority card, military identification, or passport; and

2. provides a physical description of the individual, including the sex, race, any distinguishing features, and approximate age, height, and weight of the individual

(5) a statement indicating whether or not the person making the transaction is personally known to the dealer; and

(6) the signature of the person from whom the precious metal object or personal property is acquired and the dealer or employee who accepted the precious metal object

§ 12-304. Copies to primary law enforcement units.

(a) *In general.-*

(1) A dealer shall submit the required information from each record to the primary law enforcement unit in accordance with subsection (b) of this section.

(b) *Delivering copies in general*; - 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.

(c) *Contents.* - Each record, submitted to the primary law enforcement unit and, if applicable, local law enforcement unit, shall include:

(1) the license number of the dealer;
(2) the location of each item listed in the record; and

(3) the information required under § 12-302 of this subtitle.

COMAR 09.25.02.02 Registration Required

A. A licensed dealer shall register with the Department of Agriculture any weights and measures which are used in buying from, selling to, or trading commercially with the public, any secondhand precious metal object.

B. Registration with the Department of Agriculture shall be in accordance with Agriculture Article, 11-204.1-----11-204.7, Annotated Code of Maryland.

C. A licensed dealer shall display the registration conspicuously in the place of business of the licensee.

13. Based on the aforementioned violations, the Respondent agrees to pay to the Department a civil penalty of $750.00 upon the Respondent's execution of this Consent Order.

13. 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.

14. 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.

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

BASED ON THESE STIPULATIONS, IT IS, THIS 3rd DAY OF May, 2010, BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION:

ORDERED that the Respondent has violated Business Regulation Article, §§12-208, 12-301 (a), (d), and (e), 12-302 (a) (1)-(6), Annotated Code of Maryland; and Code of Maryland Regulations COMAR 09.25.02.02;

ORDERED that the Respondent is, hereby, reprimanded;

ORDERED that the Respondent be assessed a civil penalty of $750.00 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 violations and the civil penalty of $750.00 imposed on the Respondent.

James S. Accinelli

James Scott Accinelli

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

4-28-10

Date