

DEPARTMENT OF LABOR
LICENSING AND REGULATION,

*
*

v.

*

CASE NOS.: SPMG 11-0021

*

MATTHEW GRAHAM LERNER
dba Frederick Coin Exchange,

*

*

*

Respondent

*

* * * * *

CONSENT ORDER

This matter comes before the Maryland Department of Labor, Licensing and Regulations (“Department”) as a result of complaints filed by the Frederick County Sheriff’s Office. Upon a review of the complaint, the Department has determined that administrative charges against Matthew Graham Lerner (the “Respondent”) dba Frederick Coin Exchange, 25 North Market Street, Frederick, Maryland 21701 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 holds a secondhand precious metal object dealers and pawnbrokers license with the Department (License No. 2354) dba Frederick Coin Exchange, 25 North Market Street, Frederick, Maryland 21701, which was originally issued on November 3, 2009.
3. The Respondent knew or should have known of the requirements to complete written records of each transaction in which the Respondent acquired secondhand precious metal objects from the public.
4. The Respondent knew or should have known of the requirements to electronically submit records of transactions involving the Respondent’s acquisition of secondhand precious metal object to the Frederick County Sheriff’s Office.
5. The Respondent acknowledges that during the period January 2, 2010 through October 18, 2010 the Respondent failed to comply with the requirements to complete written records of sixty-three transactions as follows:

- a) Each transaction failed to include a transaction identification number;
- b) Each transaction failed to include the time of the transaction;
- c) Each transaction failed to include identifying information about the seller;
- d) Each transaction failed to include the proper description of the items that were acquired;
- e) Each transaction form failed to include the signature of the buyer;
- f) All of the items in each transaction failed to be properly bagged and tagged;
- g) The required transaction report form that is issued by the Department to record the acquisition of secondhand precious was not used to record each transaction; and
- h) Each of the forms used to record each transaction failed to include the Respondent's name.

6. The Respondent acknowledges that the Respondent failed to report or properly report the sixty-three transactions that occurred during the period January 2, 2010 through October 18, 2010 with the Frederick County Sheriff's Office;

7. The Respondent acknowledges that the Respondent failed items in the following transactions for the required 18-holding period:

- a) Transaction dated October 8, 2010 (seller: Bobbie B.);
- b) Transaction dated October 8, 2010 (seller: Alex K.);
- c) Transaction dated October 8, 2010 (seller: Sue K.);
- d) Transaction dated October 9, 2010 (seller: Frederick K.);
- e) Transaction dated October 10, 2010 (seller: Douglas M.);
- f) Transaction dated October 13, 2010 (seller: Allen L.);
- g) Transaction dated October 14, 2010 (seller: Todd S.);
- h) Transaction dated October 14, 2010 (seller: Jonathan N.);
- i) Transaction dated October 15, 2010 (seller: Yenni S.);
- j) Transaction dated October 15, 2010 (seller: Janet S.); and
- k) Transaction dated October 11, 2010 (seller: Ronald C.).

8. The Respondent acknowledges that an inspection of the Respondent's place of business on October 21, 2010 found that the scale used to weigh secondhand precious metal objects had not be registered with the Department of Agriculture.

9. Based on the aforementioned facts, the Respondent acknowledges that he has violated Business Regulation Articles §§12-301 (a) and (e), 12-304 (a)-(c) and 12-305 (a) (1), Annotated Code of Maryland as well as Code of Maryland Regulations ("COMAR") 09.25.01.03C and 09.25.02.02, which provide:

§ 12-301. Required records.

(a) *Records of dealers.*- (1) 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...

(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) *Records of dealers.*- 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.

(2) If the dealer transacts business in accordance with § 12-206(b) of this title, the dealer also shall submit the required information from the records to the local law enforcement unit in accordance with subsection (b) of this section.

(3) On the request of a dealer, the Secretary shall provide to the dealer a list of local law enforcement units.

(b) *Delivering copies in general* - (1) Subject to paragraph (2) of this subsection, 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.

(2) A dealer may request an extension of up to 48 hours to submit the records required under paragraph (1) of this subsection.

(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.

CODE OF MARYLAND REGULATIONS

09.25.01.03 License Name.

A. A dealer's license may be issued only in the name of an individual. If the individual operates under a trade name or through a corporation or other commercial entity, the trade name, the corporate name, or business name shall be listed on the license.

B. A licensee may not operate as a secondhand precious metals dealer under any name other than the individual's name unless the trade name, corporate name, or name of the business is listed on the dealer's license and is certified to the Department of Assessments and Taxation under Article 2, §18, Annotated Code of Maryland.

C. A licensee shall only use the trade, corporate, or business name listed on the license.

D. A licensee may only effect a change of a trade, corporate, or business name if the licensee:

- (1) Notifies the Secretary of the licensee's intent to change the trade, corporate, or business name; and
- (2) Receives approval from the Secretary of the change of the trade, corporate, or business name.

09 .25.02.02 .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.

10. Based on the aforementioned violation, the Respondent agrees to pay to the Department a civil penalty of \$ 5000.00 upon the Respondent's execution of this Consent Order.

11. 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.

12. 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.

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

BASED ON THESE STIPULATIONS, IT IS, THIS 25th DAY OF February, 2011, BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION:

ORDERED that the Respondent has violated Business Regulation Article §§12-301 (a) and (e), 12-304 (a)-(c) and 12-305 (a) (1), Annotated Code of Maryland as well as Code of Maryland Regulations (“COMAR”) 09.25.01.03C and 09.25.02.02;

ORDERED that the Respondent is, hereby, reprimanded;

ORDERED that the Respondent be assessed a civil penalty of \$5,000.00 for the violation, 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 \$5,000.00 imposed on the Respondent.

RESPONDENT’S SIGNATURE
APPEARS ON ORIGINAL ORDER
Matthew Graham Lerner

DEPUTY SECRETARY’S SIGNATURE
APPEARS ON ORIGINAL ORDER
Leonard J. Howie, III
Deputy Secretary

MARYLAND DEPARTMENT OF LABOR,
LICENSING AND REGULATION

Date

2/15/11