

**BEFORE THE MARYLAND DEPARTMENT OF  
LABOR, LICENSING AND REGULATION**

DEPARTMENT OF LABOR,  
LICENSING AND REGULATION

v.

ANATOLY VOSKOVSKY,

Respondent

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\* MARYLAND SECONDHAND PRECIOUS  
METAL OBJECT DEALERS & PAWNBROKERS

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Case No: SPMG-10-0036, -0037, -0038, 0049  
and -0054

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\* OAH Case No.: DLR-PMG-64-10-08558

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**PROPOSED ORDER**

The Findings of Fact, Conclusions of Law and Recommended Order of the Recommended Decision (“RD”) of the Administrative Law Judge dated January 13, 2011, having been received, read and considered and incorporated by reference, except as may be otherwise indicated, it is, by the Deputy Secretary of the Department of Labor, Licensing and Regulation<sup>1</sup>, this 11 day of March 2011<sup>2</sup>,

**ORDERED:**

A. That, except as otherwise indicated herein, the Findings of Fact of the Administrative Law Judge (“ALJ”) be, and hereby are, **AFFIRMED** and **ADOPTED**;

B. That an additional Finding of Fact is hereby **ADOPTED** as follows:

During the October 15, 2009 transaction, the Respondent’s jeweler removed stones from the setting of the rings, thereby altering them, only moments after acquisition of the rings by the Respondent.<sup>3</sup>

<sup>1</sup> Deputy Secretary, Leonard J. Howie, III, serves as the designee of the Secretary of the Department of Labor, Licensing and Regulation to handle secondhand precious metals administrative matters, pursuant to Bus. Reg. Art., Ann. Code of Md., §2-103(a)(2)(iii).

<sup>2</sup> Pursuant to State Gov’t Art., Ann. Code of Md., §10-220(c), by letter dated March 10, 2011, the Respondent was notified that the decision of the Commission would not be issued within 60 days of receipt of the recommendations of the Office of Administrative Hearings.

<sup>3</sup> RD at 10, 11; *see also*, PMG Exhibit #1, Statement of Charges and Order for Hearing, p.3; PMG Exhibit #5; Baltimore County Police Department Supplement; Bus. Reg. Art., Ann. Code of Md., §12-305(a) and (c).

C. That, except as otherwise indicated herein, the Conclusions of Law in the Recommended Decision, that Anatoly Voskovsky (“Respondent”) violated Bus. Reg. Art., Ann. Code of Md., Title 12, for which the Respondent is subject to the provisions of §12-502(b) as a result of several transactions occurring between October 2009 and January 2010 are **APPROVED** and **ADOPTED**;

D. That all licenses in the name of Anatoly Voskovsky, the Respondent, issued by the Department of Labor, Licensing and Regulation authorizing the Respondent to conduct business as a secondhand precious metal object dealer are hereby **SUSPENDED** for 30 days, commencing 30 days from the date of this Order;

E. That during the period of suspension, the Respondent may not acquire, in any manner, including purchase, pawn or consignment, any secondhand precious metals or gems and may not sell or trade with the public any secondhand precious metals or gems. However, the Respondent may, during the suspension period, allow members of the public to redeem pawned secondhand precious metals or gems where those items were taken in pawn prior to the suspension. The term “members of the public” as it is used herein shall not include a licensed dealer within the meaning of Bus. Reg. Art., Ann. Code of Md., §§12-201, *et. seq.*;

F. That, in addition, as a result of these findings and conclusions, a civil statutory penalty in the amount of \$2,500 be imposed on the Respondent, Anatoly Voskovsky, pursuant to Bus. Reg. Art., Ann. Code of Md., §§12-209(a)(3) and 12-502(b), and that said penalty shall be paid in full to the Department of Labor, Licensing and Regulation within 30 days of the date of this Proposed Order;

G. That pursuant to State Gov’t Art., Ann. Code of Md., §10-220(d), the Department of Labor, Licensing and Regulation (“Department”) states that the reason for the modification of the ALJ’s factual findings is to clarify the violations that the Respondent was found to have committed by a

preponderance of evidence in the record after the hearing before the ALJ and to impose a more appropriate sanction after consideration of the facts and evidence in this matter.

The Department has added an additional factual finding based on evidence in the record that the Respondent or his employee removed stones from the settings of two rings only moments after the Respondent's acquisition of the items. In her Recommended Decision, the ALJ described the testimony of Corporal Sisk, Baltimore County Police Department, and also discussed the Respondent's misconduct in this regard, stating,

[t]he very nature of this behavior demonstrates bad faith and an intent to alter the objects almost immediately after purchase, rendering each object unrecognizable and difficult to recover if they had been lost or stolen.

RD at 14; *see also* PMG Exhibit 5, Supplemental Report signed October 19, 2009, Supplemental Report signed December 21, 2009. The Respondent's immediate alteration of the rings established a violation of Bus. Reg. Art., Ann. Code of Md., §12-305(a) and (c), requiring that a dealer must hold each precious metal object for 18 days and, during that time, may not alter the object.

Further, the Department has increased the term of the suspension recommended by the ALJ. The ALJ recommended a 10-day suspension and a civil penalty in the amount of \$2,500 for the Respondent's numerous violations established in this proceeding. In her Recommended Decision, the ALJ concludes that the Respondent's, "multiple violations are serious in nature and demonstrate a lack of good faith an improper oversight of business transactions...." RD at 14. At the administrative hearing, the Department argued that Respondent's numerous violations and misconduct warranted a 90-day license suspension and a civil penalty in the amount of \$5,000. Though the ALJ found that the Respondent "willfully and deliberately chose to," commit the charged violations, she recommended a far more lenient sanction because of the Respondent's claims that he had since taken a more active role

in supervising transactions and creating and maintaining accurate records and because some of the items at issue were, ultimately, found not to constitute stolen property. RD at 15. The Respondent's claims fail to acknowledge the severity of his misconduct and render the ALJ's reliance on such claims misplaced. The Respondent's violations, including the failure to properly identify acquired secondhand precious metal objects, the act of immediately altering and destroying objects before the expiration of the statutorily-mandated hold period, and the failure to request and record accurate information on the required reports of transactions, goes to the very core of the precious metals laws.

The Respondent's failure to provide law enforcement with accurate descriptions of the items he acquires or information about the people from whom he acquires such objects, and his failure to properly store such items, compromise all investigations of stolen property and deprive law enforcement of any ability it might have to recover stolen, treasured objects for the citizens of Maryland. That some of the objects at issue in this proceeding were ultimately found not to match stolen property reports cannot excuse the Respondent's actions in this manner. The ALJ seemed persuaded that the Respondent was less culpable for his illegal actions because he was ultimately able to demonstrate that some of the items at issue were custom jewelry. However, the mere fact that no harm resulted from the Respondent's violations with regard to those items, cannot excuse the potential irreparable loss that Maryland citizens might have endured because of the Respondent's willful disregard of the laws mandating the reporting of particular information upon acquisition of a secondhand precious metal object and the requirement that the dealer hold such items in inventory for the statutorily-required 18-day period, without alteration.

The Respondent sought to excuse the violations that occurred in each of the several transactions at issue in this proceeding, over the course of several months, by attributing them to his failure to

properly supervise his employees as a result of his focus on his jewelry design business.

The Secretary suspects that the Respondent's violations associated with the transactions at issue on October 14, 2009, October 15, 2009, November 5, 2009, November 9, 2009 and January 2, 2010, were not mere isolated incidents or innocent inadvertence. The more likely explanation for the Respondent's failure to report accurate information in the transactions records and his failure to comply with the hold requirements is that these violations represent the Respondent's regular practice in the operation of his business. The record evidence reflects that the Respondent, as well as his employees, had been "warned" and cautioned by law enforcement officials, numerous times prior to these occurrences, of their obligations under Maryland law. *See* PMG Exhibit 8; *see also* PMG Exhibits 6, 7, 9 and 10.

Consequently, the Secretary believes that the violations at issue warrant the 90-day license suspension and \$5,000 civil penalty originally sought. However, the Secretary will defer to the ALJ who had the opportunity to observe the witnesses' demeanor and make credibility determinations. Accordingly, though the Secretary believes that a 10-day license suspension is wholly inappropriate for the severity of the violations committed by the Respondent, the Secretary will reduce the license suspension it initially found to be appropriate and will adopt the ALJ's recommendation with regard to the monetary penalty imposed.

The provisions of Maryland law that the Respondent has been found to have violated represent serious offenses that go to the heart and primary purpose of the law. The Respondent's misconduct in this case is precisely the type of conduct that the secondhand precious metals laws are designed to prevent. *See, e.g.*, RD at 14. The failure of the Respondent's wife to obtain and record on the daily return form proof of identification from whom a person acting as a dealer acquires a precious metal

object deprives police of the ability to identify the seller of potentially stolen property, and could have allowed an individual, from whom the Respondent acquired stolen property, to escape identification and prosecution by law enforcement. Similarly, the failure of the Respondent's agent to require that the seller produce identification and sign the daily return form that is required to be submitted to law enforcement in compliance with §§12-301(a) and 12-304 further deprives law enforcement of tracking potentially stolen secondhand precious metal objects and identifying the individual responsible for a dealer's acquisition of such property.

The ALJ recognized that the Respondent's misconduct demonstrated "bad faith," and constituted serious violations. RD at 15. However, the ALJ was persuaded that because, "a few of the items seized" during the transactions at issue were later found to be the Respondent's custom design pieces, that a nominal penalty was appropriate for the Respondent's violations. *Id.* The Department finds the ALJ's analysis in this regard to be misplaced. The law does not require proof of actual harm in order to establish either a violation or grounds for imposition of a sanction. The fact that a Maryland citizen may not have been deprived of his or her property or that law enforcement officials may not have been prevented from recovering stolen property as a direct result of the Respondent's violations does not excuse his failure to comply with the law. The mere risk of harm associated with an individual's acquisition of a secondhand precious metal object from the public is deemed severe enough to require notification to law enforcement of each transaction by which such an item is acquired. Bus. Reg. Art., Ann. Code of Md., §§12-301, *et. seq.* Yet, the Respondent disregarded the laws in place for the protection of the public and conducted multiple transactions without retaining the items for the required time period, in the proper manner and in disregard of the requirement that a person who acquires such an object obtain and record particular information.

The risk of harm established by the Respondent's violations is further compounded under the facts of this case, in which the Respondent continued conduct his business in this manner even after being counseled by law enforcement of his obligations under the law for recording information about acquisitions and storing the items acquired. PMG Exhibit 8; *see also* PMG Exhibits 6, 7, 9 and 10. That the Respondent did so even after having been counseled by police of the requirements of Maryland law strips the Department of any confidence it might have had that he intended to conduct his business in compliance with laws and regulations governing secondhand precious metals transactions for the protection of the citizens of Maryland.

For these reasons, the Department finds that the Respondent's multiple violations, even after being cautioned by law enforcement and given an opportunity to comply with applicable laws and regulations, warrant a sanction greater than that recommended by the ALJ. The Department acknowledges its authority, in accordance with Bus. Reg. Art., Ann. Code of Md., §12-209, to impose a monetary penalty of \$5,000 for each individual violation. However, though the Department views the Respondent's proven violations in this case to be very serious and to involve the precise misconduct that the secondhand precious metals laws are designed to prevent, in consideration of the Respondent's defenses and that ALJ's recommendations, the Department will increase the license suspension imposed in this proceeding only to 30 days and will adopt the recommendation of the \$2,500 civil monetary penalty;

H. That pursuant to COMAR 09.01.03.07, those parties adversely affected by this Proposed Order shall have 20 days after receipt of the Order to file exceptions and to request to present argument on the decision before Leonard J. Howie, III, Deputy Secretary, Department of Labor, Licensing and Regulation. Exceptions should be sent to Dennis Gring, Executive Director, Secondhand Precious Metal

Object Dealers and Pawnbroker Licensing, 3rd Floor, 500 North Calvert Street, Baltimore, Maryland 21202. Unless written exceptions are filed within 20 days of the receipt of this Order, this Order shall be deemed to be the final decision of the Secretary of the Department of Labor, Licensing and Regulation; and

I. That the records and files of the Department of Labor, Licensing and Regulation reflect this Order.

MARYLAND SECONDHAND PRECIOUS  
METAL OBJECT DEALERS & PAWNBROKERS

DEPUTY SECRETARY'S SIGNATURE  
APPEARS ON ORIGINAL ORDER

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Leonard J. Howie, III, Deputy Secretary  
Department of Labor, Licensing and Regulation