

# ADMINISTRATIVE NOTE

IN

## SPMG 13-0025

The Respondent did not exercise the right to file exceptions to the decision of the Secretary of the Department of Labor, Licensing and Regulation in this case pursuant to Code of Maryland Regulations COMAR 01.01.03.07 and stated in Section F. of this Proposed Order. As a result, the Order was deemed a final order of the Secretary on May 26, 2014.

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

DEPARTMENT OF LABOR, LICENSING  
AND REGULATION

\*

MARYLAND SECONDHAND  
PRECIOUS METAL OBJECT  
DEALERS & PAWNBROKERS

\*

v.

\*

Case No: SPMG-13-0025

\*

ANTHONY GELFEN,  
Respondent

\*

OAH Case No.: DLR-PMG-64-13-35522

\* \* \* \* \*

**PROPOSED ORDER**

The Findings of Fact, Conclusions of Law and Recommended Order of the Recommended Decision (“RD”) of the Administrative Law Judge dated March 27, 2014, 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 5<sup>th</sup> day of May 2014, **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, except as otherwise indicated herein, the Conclusions of Law in the Recommended Decision, that Anthony Gelfen (“Respondent”) violated Bus. Reg. Art., Ann. Code of Md., Title 12, specifically, §§ 12-301(a) and (f), by failing to create and maintain the required

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<sup>1</sup> Deputy Secretary, Scott R. Jensen, 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).

records<sup>2</sup> and by failing to tag and properly keep acquired items in his inventory<sup>3</sup>, respectively, § 12-302(a) by failing to provide complete and accurate information in the required records<sup>4</sup>, § 12-303 by failing to maintain complete and required records<sup>5</sup>, §§ 12-304(a)(1), (b)(1) and (c) by failing to submit the required Daily Transaction Sheets with the required information to law enforcement for each acquired item<sup>6</sup> and § 12-305(d) by failing to keep the required records of acquisitions at the dealer's place of business or approved storage facility<sup>7</sup>, for which the Respondent is subject to the provisions of § 12-209 as a result of these multiple violations discovered during the April 2011 inspection and his April 2012 criminal convictions in the Circuit Court for Baltimore County are

**APPROVED and ADOPTED;**

C. That, on March 27, 2014, the Respondent, Anthony Gelfen, voluntarily surrendered his only remaining, active license, license #2036-02, authorizing the Respondent, Anthony Gelfen, to conduct business as a secondhand precious metal object dealer at Crown Jewelry located at 11612 Reisterstown Road, Reisterstown, MD 21136, issued by the Department of Labor, Licensing and Regulation<sup>8</sup>;

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<sup>2</sup> RD at 17.

<sup>3</sup> *Id.* at 16.

<sup>4</sup> *Id.* at 18-19.

<sup>5</sup> *Id.* at 20.

<sup>6</sup> *Id.* at 20-21.

<sup>7</sup> *Id.* at 21-22.

<sup>8</sup> The Respondent previously held license #2036 authorizing him to conduct business at Old Town Jewelry, located at 529 Old Town Mall, Baltimore, MD 21202, which expired on September 25, 2005 and was never renewed, and license #2036-01, authorizing him to conduct business as a dealer at Crown Jewelers, located at 10300 Mill Run Circle, Owings Mills, MD 21117, which expired on September 7, 2013 and was never renewed. Administrative Hearing Exhibits 2 and 3, respectively; *see also*, RD at 5-6, paras.6-8.

D. That, as a result of these findings conclusions, the Respondent, Anthony Gelfen, shall not seek and shall be deemed ineligible for licensure, including renewal or reinstatement license numbers: 2036, 2036-01 and 2036-02, for at least five (5) years from the effective date of this order;

E. That, pursuant to State Gov't Art., Ann. Code of Md., §10-220(d), the Department states that the reason for the modification of the ALJ's recommended sanction is because the Respondent, Anthony Gelfen, voluntarily surrendered his license on March 27, 2014, prior to the Department's receipt of the ALJ's Recommended Decision dated the same day. The Department agrees that the multiple violations committed by the Respondent warrant license revocation. As the ALJ stated, not only did the Respondent, on his own and through his employee, for whose actions he is also accountable, commit multiple violations of the laws pertaining to secondhand precious metal object dealers and pawnbrokers, but his repeated violations, occurring over a considerable period of time, demonstrate that the Respondent did so, "*willfully and knowingly,*" and "in multiple ways...with...knowledge of the consequences of failing to meet their responsibilities." RD at 25 (emphasis in original); *see also id.* at 8-9, paras.17-21. The ALJ seemed stunned by the evidence that the Respondent, Anthony Gelfen, had never reported a single transaction, "from the day the store opened in August 2012 through the November 7, 2012 investigatory visit." *Id.*; *see also id.* at 10, para.22. The ALJ found that the Respondent's violations, established by his "failure to create, retain and submit the information required by the Act," were pervasive and that compliance with the applicable statutory requirements is necessary to law enforcement to "aid in the apprehension of thieves and inhibit trafficking of stolen goods." RD at 26.

ALJ's recommended sanction and, having accepted the Respondent's surrender of his license, will restrict his ability to operate as a licensed dealer, but will refrain from imposing a civil monetary penalty;

F. 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 Scott R. Jensen, Deputy Secretary, Department of Labor, Licensing and Regulation or his designee. 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

G. 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  
ON ORIGINAL DOCUMENT

**Scott Jensen,**

**Deputy Secretary** ary

Department of Labor, Licensing and Regulation

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

**v.**

**ANTHONY GELFEN,  
RESPONDENT**

**\* BEFORE HENRY R. ABRAMS,  
\* AN ADMINISTRATIVE LAW JUDGE  
\* OF THE MARYLAND OFFICE  
\* OF ADMINISTRATIVE HEARINGS  
\* CASE NO.: DLR-PMG-64-13-35522  
\* COMPLAINT NO.: SPMG-13-0025**

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**RECOMMENDED DECISION**

**STATEMENT OF THE CASE  
ISSUES  
SUMMARY OF THE EVIDENCE  
FINDINGS OF FACT  
DISCUSSION  
CONCLUSIONS OF LAW  
RECOMMENDED ORDER**

**STATEMENT OF THE CASE**

On September 3, 2013, the Maryland Department of Labor, Licensing and Regulation (DLR) ordered Anthony Gelfen (Respondent) to appear for an administrative hearing to respond to charges that he violated various statutory provisions under the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers (SPMO) Act (Act). Md. Code Ann., Bus. Reg., §§ 12-101 through 12-601 (2010 & Supp. 2013).<sup>1</sup> The Order to appear advised the Respondent that the hearing could result in a reprimand, suspension or revocation of his license as an SPMG dealer, or civil penalties up to \$5,000.00 per violation of the Act.

On October 1, 2013, the OAH sent a notice of hearing (Notice) to the Respondent advising him that the hearing would be held on January 8, 2014, at 9:30 a.m., at the Office of Administrative Hearings (OAH), 11101 Gilroy Road, Hunt Valley, Maryland 21031. The Notice advised the Respondent that failure to appear may result in a decision against him. The Notice

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<sup>1</sup> All statutory references in this recommended decision are to the version of the relevant section or sections of the Act in effect as of the date of the Respondent's alleged violations.

was sent to the Respondent's business address on file with the DLR. The United States Post Office did not return the Notice as undelivered.

On January 8, 2014, at 9:30 a.m., I commenced the ordered hearing at the OAH pursuant to section 12-210 of the Act. Assistant Attorney General Peter Martin represented the DLR. Neither the Respondent nor anyone representing him timely appeared or was present at any time throughout the hearing. After waiting more than twenty minutes, I proceeded with the hearing on the merits. Procedure in this case is governed by the provisions of the Act, section 12-210; the Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2009 & Supp. 2013); the DLR's hearing regulations, Code of Maryland Regulations (COMAR) 09.01.02 and 09.01.03; and the OAH's Rules of Procedure, COMAR 28.02.01.

### ISSUES

1. Did the Respondent violate the record-keeping requirements of sections 12-301(a) and (f) of the Act?
2. Did the Respondent violate the required record content requirements of section 12-302(a) of the Act?
3. Did the Respondent violate the record retention requirements of section 12-303 of the Act?
4. Did the Respondent fail to submit required records to the primary law enforcement unit via electronic transmission in violation of sections 12-304(a)(1), (b)(1) and (c) of the Act?
5. Did the Respondent violate the proscription against altering a secondhand precious metal object or fail to maintain the record of the object for the requisite time period in violation of sections 12-305(c) and (d) of the Act?

6. Did the Respondent fail to allow authorized law enforcement personnel to conduct inspections in violation of section 12-306 of the Act?
7. If the Respondent committed any of the above violations, what, if any, sanction(s) should be imposed upon him under section 12-209 of the Act?

### **SUMMARY OF THE EVIDENCE**

#### Exhibits

The DLR submitted the following exhibits, which I admitted into evidence:

- DLR Ex. 1     October 1, 2013 Notice, together with September 3, 2013 Statement of Charges and Order for Hearing
- DLR Ex. 2     DLR I.D. Registration – SPMO Dealers record re: the Respondent’s SPMO license no. 2036, doing business as Old Town Jewelry, Inc., 529 Old Town Mall, Baltimore, Maryland 21202, first issued September 25, 2001, and renewed and effective to September 25, 2005<sup>2</sup>
- DLR Ex. 3     DLR I.D. Registration – SPMO Dealers record re: the Respondent’s SPMO license no. 2036-01, doing business as Crown Jewelers in partnership with Yvegeniy Radchenko, 10300 Mill Circle Run, Owings Mills, Maryland 21117, first issued September 7, 2005, and renewed and effective to September 7, 2013
- DLR Ex. 4     DLR SPMG Dealers Application for Original License/Certificate for the Respondent and Mr. Radchenko, doing business as Crown Jewelers
- DLR Ex. 5     DLR I.D. Registration – SPMO Dealers record re: the Respondent’s SPMO license no. 2036-02, doing business as Crown Jewelers, Cheery [sic] Valley Shopping Center, 11612 Reisterstown Road, Reisterstown, Maryland 21136, issued and effective July 9, 2012 to July 9, 2014
- DLR Ex. 6     December 18, 2012 DLR SPMO Program Law Enforcement Complaint Referral Form report re: the Respondent
- DLR Ex. 7     Undated DLR SPMO Original License Application Form in effect in July 2012 (as it appeared on the DLR’s website)
- DLR Ex. 8     Undated DLR SPMO License Renewal Form in effect in August 2009 and September 2011(as it appeared on the DLR’s website)

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<sup>2</sup> DLR prepares a new license record, indicated by a numerical suffix appended to the main license number, for each separate location of a dealer.



DLR Ex. 9 Undated DLR SPMO Daily Transaction Report Form/Data Required For Electronic Filing

DLR Ex. 10 January 2010 Guidelines for Completing and Filing Daily Transaction Reports

Testimony

The Department presented the following witnesses:

- Dennis Gring, Executive Director, DLR SPMO Program
- Corporal Christine Sisk, Baltimore County Police Department (BCPD)
- Detective Sherry Fitch, BCPD
- Detective Corporal Morgan Hassler, Supervisor, Precious Metal and Scrap Metal Unit, BCPD

No one testified on the Respondent's behalf.

**FINDINGS OF FACT**

I find the following facts by a preponderance of the evidence:

1. Employees of DLR's SPMO Program (Program) work in conjunction with local law enforcement agencies to regulate and monitor the purchase, sale and pawn of secondhand precious metal<sup>3</sup> objects. The Program serves several purposes, including deterring the illegal transfer and promoting the recovery of stolen goods.

2. The Respondent has owned three jewelry shops: Old Town Jewelry, Inc., in Baltimore, Maryland; Crown Jewelers, Inc., in Owings Mills, Maryland; and Crown Jewelers, Inc., in Reisterstown, Maryland. The Respondent buys and sells jewelry at his three stores, including secondhand precious metal objects.

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<sup>3</sup>Precious metals under the Act are gold, silver, platinum, iridium, and palladium. Md. Code Ann., Bus. Reg. § 12-101(i)(1). A precious metal object includes these metals as well precious or semi-precious stones or pearls attached to these metals, as well as certain alloys that consist at least in part of the above precious metals. Md. Code Ann., Bus. Reg. § 12-101(i)(2) and (3).

3. This matter concerns the Respondent's store in Reisterstown, Maryland, located at 11612 Reisterstown Road, Reisterstown, Baltimore County, Maryland, 21136 (the Reisterstown Road store).<sup>4</sup>

4. Those seeking to operate as secondhand precious metal objects dealers must be licensed. License applications may be filed on paper or completed electronically via the internet. SPMO licenses are effective for a specified period of time, after which the license holder must file a license renewal application seeking authorization to continue operating. Moreover, dealer licenses are limited to specific locations. Each additional store a dealer intends to operate requires a new application and approval. Upon approval, the DLR adds a suffix to the dealer's original license number, designating the dealer's operation at the new location.<sup>5</sup>

5. SPMO dealer licenses need to be renewed from time to time. Each time a license expires, the licensee must submit a new application seeking authorization to continue operating at the particular location.

6. The DLR first licensed the Respondent as an SPMO dealer on September 25, 2001, authorizing him to operate the Old Town Jewelry, Inc. store in Baltimore, Maryland. The DLR issued the Respondent dealer license number 2036 for this store. This license was set to expire after two years. The Respondent renewed the license on or about August 10, 2003. That renewal expired September 25, 2005, after which the Respondent did not renew the license for that location.

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<sup>4</sup> The Respondent appears to have associated with Mr. Radchenko in the ownership of the Crown Jewelers, Inc. store located in Owings Mills, Maryland, but not in the one located in Reisterstown, Maryland. The record does not disclose when, if ever, any of the Respondent's three stores ceased doing any business with the public.

<sup>5</sup> The dealer's license number, which never changes, is recorded in the SPMO Program's database as the registration number, abbreviated in the database record as "Reg No." (Gring test.; *see also, e.g.*, DLR Ex. 2.) Separate licenses are issued for specific locations. COMAR 09.25.02D. Licenses for each additional location are issued and designated by the dealer's original license number followed by a suffix representing the additional location. (Gring Test. *See also* DLR Exs. 7-9.)

7. The DLR first licensed the Respondent (together with Mr. Radchenko) to operate the Crown Jewelers, Inc. store in Owings Mills, Maryland on September 7, 2005, designated in the DLR's records as license number 2036-01. The Respondent renewed that license every two years until September 7, 2013.

8. The DLR licensed the Respondent to operate the Crown Jewelers, Inc. store in Reisterstown, Maryland on or about July 9, 2012, designated in the DLR's records as license number 2036-02. That license does not expire until July 9, 2014. The Respondent reported to the SPMO Program that Mr. Radchenko was the Respondent's employee at this location.

9. At all relevant times since at least 2005, the paper and internet versions of an initial application for an SPMO dealer's license have included a statement (Certification) that the applicant is required to sign, affirming under the penalties of perjury that he or she has read and understands the dealers' responsibilities pursuant to sections 12-101 through 12-601 of the Act, and pursuant to the applicable provisions of COMAR 09.25.01. (*See, e.g.*, DLR Ex. 7.)<sup>6</sup> The Certification also includes the applicant's agreement that, if issued a license, he or she will allow any municipal, local or State police officer conducting an investigation of stolen property or possible violations of the Act to have access to and photograph the licensee's objects and records maintained pursuant to the Act. (*Id.*)

10. The Respondent signed Certifications, either on paper or by electronic signature via the DLR's website, at least in connection with the initial authorizations he obtained to operate each of the two Crown Jewelers, Inc. locations. (Gring Test; DLR Ex. 4.)

11. At all relevant times since at least 2007, the paper and internet versions of the SPMO dealers' license renewal applications contained materially identical Certifications. The

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<sup>6</sup> The version of the application in effect in August 2007 referred to the provisions contained in COMAR 09.25.01.01 through .04. The version of the application in effect in and after 2009 refers to the provisions contained in COMAR 09.25.01.01 through .05. That difference is immaterial to this matter.

Respondent signed such Certifications, either on paper or by electronic signature via the DLR's website, at least in connection with the 2007, 2009 and 2011 renewals of his license to operate the Owings Mills location of Crown Jewelers, Inc. (Gring Test.)

12. SPMO dealers are required by law to maintain at each of their licensed locations certain records in connection with the purchase and sale of secondhand precious metal objects. They are also required to submit records regarding these transactions to the Program. Dealers are required to fill out Daily Transaction Sheets, signed by the seller(s) and the dealer or an authorized employee, providing very detailed descriptions of the seller(s) and each of the objects purchased. By noon the next business day, the dealers must submit the information from the daily transaction sheets to the dealer's primary law enforcement agency, determined by store location. The information is submitted electronically and is maintained in a database known as RAPID. Dealers also are required to maintain their records of these transactions for three years.

13. Daily Transaction Sheets are forms provided to SPMO dealers by the Program. These forms have blank lines, boxes, columns, and rows for specific, detailed information about secondhand precious metal transactions, and signature lines for the buyer and seller engaged in a transaction. If filled out properly, these forms contain all information required for such transactions under the relevant statutes and regulations.

14. The record maintenance and submission requirements are set out in the Act and the provisions of COMAR 09.25.01. Further, since at least 2010, detailed guidelines regarding the completion, maintenance and submission of these records have been available to dealers in a booklet they can obtain from the Program entitled "Guidelines for Completing and Filing Daily Transaction Sheets." (DLR Ex. 10.) The booklet has pages of pictures to assist dealers and their employees in using the proper terminology to accurately describe types of chains for necklaces and bracelets, different types of stone cuts, and other characteristics of acquired jewelry. (*Id.*)

15. In addition to the record requirements, at all relevant times, the Act and applicable regulations have required dealers to individually bag, tag and store secondhand precious metal objects acquired from customers for at least eighteen days after they are acquired, following which the dealers are permitted to sell or otherwise dispose of those objects.

16. In August 2012, shortly after the Respondent's Reisterstown Road store opened, BCPD Detective Fitch met with Mr. Radchenko there. Among other things, Detective Fitch reviewed with Mr. Radchenko all the rules and regulations pertaining to the SPMO records requirements and the requirements pertaining to the retention of secondhand precious metal objects obtained from customers. They also processed a hypothetical transaction, including submission of a Daily Transmission Sheet to the BCPD.

17. In November 2012, Corporal Sisk and other members of the BCPD Burglary Unit were involved in an investigation of a number of burglaries in Baltimore County, Maryland. Westminster Police Department Detective Corporal Schuster was working with the BCPD Burglary Unit on the investigation. Corporal Sisk and the other investigators had identified and were following a group of suspects believed to be the perpetrators of the burglaries.

18. On November 6, 2012, the investigators followed the suspects to the Respondent's Reisterstown Road store. The investigators believed the suspects may have gone to the Respondent's store to sell stolen jewelry. After the suspects left the store, the investigators accessed the Regional Automated Pawn Information Database (RAPID) system several times throughout both November 6 and November 7, 2012, to determine whether the Respondent or anyone on his behalf posted any transactions to the database. No transaction of any kind had been posted since the hypothetical transaction Mr. Radchenko and Detective Fitch processed on August 3, 2012, shortly after the Reisterstown Road store opened.

19. On November 7, 2012, BCPD Detective Fitch and members of the BCPD Burglary Unit entered the Respondent's Reisterstown Road store, where they encountered Mr. Radchenko. Mr. Radchenko recalled Detective Fitch from her August 2012 visit to the store. Detective Fitch advised Mr. Radchenko that she was there to conduct a business inspection on any precious metal purchases that had been made over the prior eighteen days and any other paperwork related to any previous precious metal purchases. Detective Fitch also asked Mr. Radchenko to contact the Respondent and ask him to join them at the store.<sup>7</sup>

20. Detective Fitch asked Mr. Radchenko when he last purchased a precious metal object, and Mr. Radchenko answered that he did not recall. He indicated that he had not bought any jewelry or gold "in a while." (DLR Ex. 6.) Mr. Radchenko indicated that the Respondent did most of the gold buying. (*Id.*)

21. During the November 7, 2012 store visit, Mr. Radchenko advised Detective Fitch that he could not locate any previous transaction sheets for any prior precious metal transactions. Mr. Radchenko opened the store safe for inspection. Various pieces of jewelry were stored in the safe. The jewelry appeared worn. The pieces of jewelry were not separately bagged or tagged, and no transaction sheets were attached. Detective Fitch and the others seized thirty-eight pieces of gold and silver objects, all of which were identified as stolen property positively identified as items stolen in a burglary that occurred in Westminster, Maryland on November 2, 2012. Along with the jewelry, Detective Fitch and the others found two transaction sheets partially filled out with the seller's information and the amount of cash given, but missing any jewelry description, as well as the date or dates the jewelry (if any) was acquired. One of the partially filled out transaction sheets had the name of one of the suspects believed to be involved in the Baltimore County burglaries described above, as well as in the November 2, 2012 burglary in Westminster,

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<sup>7</sup> The record does not disclose whether the Respondent came to the Reisterstown Road store during the time the investigators were there.

Maryland. Detective Fitch and the others also recovered a piece of notepad paper, which listed a seller's identifying information and a cash amount, but no jewelry description.

22. The Respondent, whether directly or through Mr. Radchenko, never transmitted to the BCPD or any other law enforcement unit any records concerning the acquisition of the 38 pieces of gold and silver jewelry stolen on November 2, 2012, and stored in the safe at the Reisterstown Road store.

### DISCUSSION

The DLLR charged the Respondent with violating several provisions of the Act. Because the Department is asserting that the Respondent committed the alleged violations, it bears the burden of proof. *See Schaffer v. Weast*, 546 U. S. 49, 56 (2005). It must prove its allegations by a preponderance of the evidence. Md. Code Ann., State Gov't § 10-217 (2009).

The DLR charged the Respondent with the following: failing to properly tag and number secondhand precious metal objects purchased or otherwise acquired from customers (transactions), in violation of section 12-301 of the Act; failure to create and maintain proper records of transactions, in violation of sections 12-301 through 12-303 of the Act; failure to timely submit records of transactions to the Respondent's primary law enforcement unit, in violation of section 12-304 of the Act; altering secondhand precious metal objects and failing to maintain for the necessary period of time required records of secondhand precious metal object acquisitions, in violation of section 12-305 of the Act; and failure to allow an authorized law enforcement officer to inspect records of transactions, in violation of section 12-306 of the Act. As a result of these alleged violations, the DLR seeks revocation of the Respondent's license, pursuant to section 12-209 of the Act. For the reasons stated below, I find that the DLR has met its burden as to each of the alleged violations, except as to the alleged alteration of secondhand precious metal objects in violation of section 12-305 of the Act.

## **1. THE ACT**

The Act regulates, among other things, the purchase and sale of secondhand precious metal objects. Md. Code Ann., Bus. Reg. §§ 12-101 to 12-601.

### **a. Definitions**

“Dealer” is defined by in section 12-101(b)(1)(i) of the Act as an individual who acquires commercially from the public or trades commercially with the public in secondhand precious metal objects. “Employee” means an individual who is employed by a dealer to buy, sell, or supervise directly the buying or selling of secondhand precious metal objects. Md. Code Ann., Bus. Reg. §12-101(c). “Fixed business address” means a single physical location in Maryland where a licensee regularly conducts business and at which the licensee or an employee of the licensee is physically present during normal business hours or other hours as provided in the application sufficient to provide an authorized law enforcement agent access to the licensee’s place of business. Md. Code Ann., Bus. Reg. §12-101(d)(1)-(2). “Precious metal object” means a precious metal that is gold, iridium, palladium, platinum, or silver, a precious or semiprecious stone or pearl that is or appears to have been attached or inlaid in a precious metal or an alloy of a precious metal, or an object that is composed of precious metal if the market value lies principally in its precious metal component, or at least 25% of the weight of the object is precious metal. Md. Code Ann., Bus. Reg. §12-101(i)(1)-(3). However, for purposes of the Act, an object is presumed to be a precious metal object if it reasonably appears to be one and it was received by a dealer in the course of business or is found in the place of business or storage facility of a dealer. Md. Code Ann., Bus. Reg. § 12-301(f)(1) and (2).

“Local law enforcement unit” means the Maryland Department of State Police, a Maryland police department, or Maryland sheriff, as designated by resolution of the county or municipal governing body, with jurisdiction over any place where a dealer transacts business



other than the dealer's fixed business address. Md. Code Ann., Bus. Reg. §12-101(f). "Primary law enforcement unit" means the Department of State Police, a police department, or sheriff, as designated by resolution of the county or municipal governing body in the county in which the license is held. Md. Code Ann., Bus. Reg. §12-101(j). "Secretary" means the Secretary of the DLR. Md. Code Ann., Bus. Reg. §1-101(h).

b. Persons Authorized to Conduct Secondhand Precious Metal Object Transactions

The Act requires an individual who wants to be licensed as a dealer to submit an application. Md. Code Ann., Bus. Reg. §12-202. The application form shall contain, immediately above the signature line, the following: "If issued a license, I agree to allow a municipal, county, or State police officer or agent acting in the course of a stolen property investigation or an investigation of a violation of the title to inspect and photograph all precious metal objects and records at my business or storage locations." Md. Code Ann., Bus. Reg. §12-202(d).

A person may not do business as a dealer in the State unless the person has a license. Md. Code Ann., Bus. Reg. §12-501. A dealer's agents, employees, management personnel, or partners include only those individuals who are directly involved in the acquisition or sale of secondhand precious metals on behalf of the dealer. Md. Code Ann., Bus. Reg. §12-209(a). Before an individual may begin to work for a dealer as an employee, the dealer shall submit to the DLR the name of the individual, and the individual shall apply for a national and State criminal history records check. Md. Code Ann., Bus. Reg. §12-203.

Only an individual or group of individuals may apply for a dealer's license. If an individual is a sole proprietorship, the owner shall be licensed. If a partnership, each partner shall be licensed. If a corporation is publicly traded, the individual with controlling interest must be licensed. If a publicly traded corporation, the individual who is the manager of the shop must be licensed. COMAR 09.25.01.01. A business entity may not be licensed as a dealer. An

applicant must include as part of an application the name of the business entity at which the dealer will be conducting business under the license. COMAR 09.25.01.03. An owner must submit a new application for each separate location at which the owner intends to conduct business. COMAR 09.25.02D.

c. Required Records of Acquisition and Tagging of Secondhand Precious Metal Objects

Each dealer shall make a written record, on a form provided by the DLR, of each business transaction that involves the acquisition of a secondhand precious metal object when the transaction is made. Md. Code Ann., Bus. Reg. §12-301(a)(1). The form is known as the Daily Transaction Sheet. Each dealer shall retain the original copy of the Daily Transaction Sheet, which is required to be maintained at the dealer's place of business. Md. Code Ann., Bus. Reg. §12-301(a)(2). 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. Md. Code Ann., Bus. Reg. §12-301(d). A dealer shall tag each item individually with a number that corresponds to the transaction under which it was acquired. Items sold as a set may be tagged as a set. Md. Code Ann., Bus. Reg. §12-301(e).

In addition to any other information required by the DLR, the records of a dealer shall include: the date, place and time of each transaction that involves the acquisition of a precious metal object; the name and address of the principal if the transaction is by an agent; a description of the precious metal object, including its approximate metallic composition, any jewels, stones, or glass parts; any mark, number, word or any other identification on the precious metal object; its weight, if payment is based on weight; a statement whether it appears to have been altered by any means including obscuring a serial number or identifying feature, melting, or recutting a gem; name of the licensee; the amount paid or other consideration; the name, date of birth, and driver's license number of the individual or other information about the individual that positively

identifies the individual from at least two forms of identification; provides a physical description of the individual including sex, race, any distinguishing features, and approximate age, height, and weight of the individual; a statement whether or not the person making the transaction is personally known to the dealer; and the signature of the person from whom the precious metal object is acquired and of the dealer or employee who accepted the precious metal object. Md. Code Ann., Bus. Reg. §12-302(a)(1)-(6). A person that sells an item to a dealer shall sign a statement, under the penalties of perjury, that the person is the owner of the item. Md. Code Ann., Bus. Reg. §12-402.

Unless otherwise authorized by the DLR, a dealer shall keep the records required by the Act at a location within the State for three years after the date of the transaction. Md. Code Ann., Bus. Reg. §12-303.

d. Delivery of Records of Acquisition of Secondhand Precious Metals to Law Enforcement Authorities

A dealer shall submit a record of each transaction to the primary law enforcement unit. The record must contain the license number of the dealer; the location of each item involved in the transaction; and all the information required pursuant to section 12-302 of the Act. Md. Code Ann., Bus. Reg. §12-304(a) and (c). The dealer is to submit the required record electronically by noon of the day following a transaction. Md. Code Ann., Bus. Reg. §12-304(b).

e. Location of Storage of Secondhand Precious Metal Objects

A dealer who acquires a precious metal object shall keep it in the county where the dealer holds a license from the time of acquisition until at least 18 days after submitting a copy of a record of its acquisition to a primary law enforcement unit. Md. Code Ann., Bus. Reg. §12-305(a)(1). Objects acquired by a dealer may be maintained at a location other than the primary place of business only if the local law enforcement unit in the jurisdiction provides

written approval. Md. Code Ann., Bus. Reg. §12-305(a)(3). During the 18-day holding period, a dealer shall keep the precious metal object and the record of its acquisition in the place of business of the dealer, or a storage facility specified in the license application of the dealer. Md. Code Ann., Bus. Reg. §12-305(d).

f. Cooperation With Law Enforcement Authorities

A dealer shall allow an authorized law enforcement officer or agent, on request, to enter the place of business or storage premises of the dealer during business hours to inspect a record required to be maintained or to inspect a precious metal object as part of a stolen property investigation or an investigation of a violation of the Act. Md. Code Ann., Bus. Reg. §12-306(a). On request of the dealer, the officer or agent shall make the inspection in the presence of the dealer or an agent of the dealer. Md. Code Ann., Bus. Reg. §12-306(b)(1). If the dealer refuses to allow access or produce the record or precious metal object for inspection, the officer or agent shall seek a search warrant. Md. Code Ann., Bus. Reg. §12-306(b)(3).

g. Sanctions

The DLR has adopted regulations to carry out and enforce the Act. Md. Code Ann., Bus. Reg. §12-103; COMAR 09.25.01 and .02. The DLR may deny a license, reprimand a licensee, or suspend or revoke the license if the licensee or an agent, employee, manager or partner of the licensee willfully fails to provide or willfully misrepresents any information required to be provided under the Act, violates the Act, or violates a regulation adopted under the Act. Md. Code Ann., Bus. Reg. §12-209(a)(2)(vii)-(ix). Instead of or in addition to reprimanding a licensee or suspending or revoking a license, the DLR may impose a penalty not exceeding \$5,000 for each violation. Md. Code Ann., Bus. Reg. §12-209(a)(3).<sup>8</sup>

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<sup>8</sup> The DLR does not seek monetary sanctions in this matter.

## **2. THE RESPONDENT VIOLATED SECTION 12-301(f) OF THE ACT**

Section 12-301(f) provides:

(f) Tagging and numbering of items. – (1) When a dealer places items into their [sic] inventory, the dealer shall tag each item individually with a number that corresponds to the transaction under which it was acquired....

(2) Each item tagged by a dealer under paragraph (1) of this subsection shall remain tagged for the entire period the item is stored in the dealer's inventory.

Md. Code Ann., Bus. Reg. § 12-301(f)(1) and (2).

The Respondent clearly violated the tagging requirement. On November 7, 2012, Detective Fitch and the other investigators discovered 38 pieces of silver and gold jewelry in the Respondent's safe at his Reisterstown Road store. Each of these items was positively identified as having been stolen from a Westminster, Maryland home on November 2, 2012. None of the 38 pieces of stolen jewelry was tagged.<sup>9</sup>

The only issue is whether either the Respondent or Mr. Radchenko placed the 38 jewelry pieces into the Respondent's inventory. According to the records submitted by the Respondent to the DLR, the only employee at the Reisterstown Road store was Mr. Radchenko, and there is no evidence in the record indicating anyone other than the Respondent and Mr. Radchenko worked at this location. Given the absence of any records indicating these items were being stored on behalf of someone other than the Respondent, it is a fair inference, and I conclude, that the Respondent or Mr. Radchenko placed the gold and silver jewelry pieces into the Respondent's inventory.

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<sup>9</sup> It is unclear from the record whether the police discovered any precious metal objects in addition to the 38 pieces of stolen gold and silver. If so, the Respondent and his staff failed to tag any of those additional items or submit Daily Transaction Sheets with respect to any of these items, thereby violating (at least) the record content and reporting requirements detailed below.

### **3. THE RESPONDENT VIOLATED SECTION 12-301(a) OF THE ACT**

Section 12-301(a) addresses some of the Act's record-keeping requirements:

§ 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.
- (2) Each dealer shall retain the original copy of the written record required to be made under paragraph (1) of this subsection at the dealer's place of business.

...

Md. Code Ann., Bus. Reg. § 12-301(a)(1) and (2).

Thus, pursuant to section 12-301(a), the Respondent was required to make and retain a record of each transaction involving the acquisition of a secondhand precious metal object. Each item acquired in a given transaction shall be separately listed; but it is clear that more than one item can be listed on each written record, as long as each of the listed items pertains to the same transaction. Md. Code Ann., Bus. Reg. 12-301(d). *See also*, Md. Code Ann., Bus. Reg. § 12-304(c)(2) (each record submitted to law enforcement shall include the location of each item listed in the record, thereby making clear that each record can contain multiple items).

It is clear that the Respondent, acting either directly or through Mr. Radchenko, violated both subsections of section 12-301(a). It is true that Detective Fitch and the other investigators did find a Daily Transaction Sheet at the store bearing the name of one of the suspected burglars. Even if this Daily Transaction Sheet in fact pertained to all 38 pieces of stolen gold and silver jewelry, the Daily Transaction Sheet was woefully incomplete. As discussed more fully in the discussion of section 12-302, below, the Daily Transaction Sheet containing the burglar's name lacked virtually all of the required content of records mandated by the Act.

In reading and construing separate sections of an Act, the sections should be construed so that none is meaningless and so that, to the maximum extent possible, the separate sections are harmonized to accomplish the purpose of the Act as whole. *Headen v. Motor Vehicle Admin.*, 418 Md. 559, 569 (2011). Thus, even though section 12-301(a) does not expressly require the maintenance of *complete* records, it would make no sense to specify the required content of acceptable records in section 12-302 but permit the creation and maintenance of incomplete records pursuant to section 12-301. Section 12-301 addresses the requirement to create and maintain records; section 12-302 gives definition to the meaning of that term. Because the Respondent, either directly or through Mr. Radchenko, failed to create or maintain a complete record of the transaction involved in acquiring the 38 pieces of stolen gold and silver jewelry, the Respondent violated the terms of sections 12-301(a)1 and (2).

#### **4. THE RESPONDENT VIOLATED SECTION 12-302(a) OF THE ACT**

It is equally clear that the Respondent violated section 12-302 of the Act, governing the required content of SPMO dealers' records. That section provides:

§ 12-302. Content 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

- (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 ... is acquired and the dealer or employee who accepted the precious metal object.

Md. Code Ann., Bus. Reg. § 12-302(a)(1)-(6).

The Respondent, directly or through Mr. Radchenko, breached virtually every content requirement contained in section 12-302(a). By definition, the 38 pieces of stolen gold and silver jewelry constituted secondhand precious metal objects, for which records were required. Yet, as to these objects, the Respondent failed to have any records containing all the information required by section 12-302(a). Moreover, to the extent that the two Daily Transaction Sheets the investigators found represented completed transactions, those records failed to satisfy the requirements of section 12-302(a) as well, because neither contained any description of the precious metal objects involved in the transaction.<sup>10</sup>

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<sup>10</sup> Although not expressly reported by Detective Fitch or any of the other investigators, I surmise that these partially completed Daily Transaction Sheets were also missing one or both required signatures.



## **5. THE RESPONDENT VIOLATED SECTION 12-303 OF THE ACT**

Section 12-303 of the Act provides that, unless otherwise authorized by the DLR, dealers are to maintain the records required by the Act, at a location within the State, for three years following the date of the transaction. Here, at most, the Respondent maintained an incomplete record as to the 38 stolen items of gold and silver jewelry. Thus, the Respondent failed to keep the *required* records, because the records mandated by the Act require much more information than that maintained by the Respondent. Md. Code Ann., Bus. Reg. § 12-302.<sup>11</sup> Obviously, in failing to create any complete records with respect to (at least) the 38 stolen objects, the Respondent, directly or through Mr. Radchenko, failed to meet the record retention requirement set forth in section 12-303.

## **6. THE RESPONDENT VIOLATED SECTION 12-304 OF THE ACT**

The Respondent also violated section 12-304 of the Act. That section provides, in pertinent part:

(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; Howard County provision. –

(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.

...

(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;

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<sup>11</sup> Detective Fitch and the other investigators learned during their investigation that the Respondent had not reported any secondhand precious metal object transactions since the Reisterstown Road store opened in August 2012. While it highly unlikely that the Respondent had no transactions (other than that involving the 38 pieces of stolen jewelry) there is no proof in the record that such other transactions occurred.

- (2) the location of each item listed in the record; and
- (3) the information required under § 12-302 of this subtitle.

Md. Code Ann., Bus. Reg. § 12-304(a)(1),(b)(1) and (c)(1)-(3).

The Respondent, whether directly or through Mr. Radchenko, *never* submitted *any* records to the DLR pertaining to the 38 pieces of jewelry stored at the Reisterstown Road store. Thus, by definition, the Respondent failed to report the acquisition of these items by noon of the day following the acquisition of each, in violation of sections 12-304(a) and (b) of the Act; and failed to submit the required information as to the acquisition of each, in violation of section 12-304(c).

**7. THE DLR FAILED TO PROVE THAT THE RESPONDENT VIOLATED SECTION 12-305(c) OF THE ACT, BUT DID PROVE THE RESPONDENT VIOLATED SECTION 12-305(d)**

Sections 12-305(c) and (d) provide:

§ 12-305. Holding period for precious metal objects.

...

(c) *Alteration of object.* - (1) Except as provided in paragraph 2 of this subsection, a dealer may not alter a precious metal object before or during the holding period....

(d) *Place for keeping object or record.* - During the holding period for a precious metal object the dealer shall keep the ... record of its acquisition in:

- (1) the place of business of the dealer;
- (2) a storage facility specified in the license application of the dealer.

Md. Code Ann., Bus. Reg. § 12-305(c) and (d).

The DLR failed to produce any evidence that the Respondent, whether directly or through Mr. Radchenko, in any way altered the jewelry Detective Fitch and the other investigators found

in the Respondent's Reisterstown Road store. As a result, the DLR failed to prove a violation of section 12-305(c)(1) of the Act.

However, for the same reasons as those stated with respect to the Respondent's violation of section 12-301(a) of the Act, the Respondent's failure to keep a complete record of secondhand precious metal transactions at the Reisterstown Road store violated section 12-305(d) of the Act.

#### **8. THE RESPONDENT VIOLATED SECTION 12-306 OF THE ACT**

Section 12-306 provides, in pertinent part:

**§ 12-306. Inspection of records and precious metal objects**

(a) In general. -- A dealer shall allow an authorized law enforcement officer or agent, on request, to enter the place of business or storage premises of the dealer during business hours to inspect a record required to be maintained under this title or precious metal object as part of a stolen property investigation or an investigation of a violation of this title.

...

(c) Refusal; penalty. -- A dealer who refuses to allow access or to produce records, precious metal objects for inspection on request, shall be subject to the provisions of § 12-209 of this title and, in addition, may be assessed a civil penalty as provided in subsection (d) of this section.

Md. Code Ann., Bus. Reg. § 12-306(a) and (c).

Mr. Radchenko did allow Detective Fitch to enter the Reisterstown Road store, as required by section 12-306(a). He also permitted the investigators to inspect the precious metal objects that were stolen on November 2, 2012, again as required by section 12-306(a). However, Mr. Radchenko was unable to permit the investigators "to inspect a record required to be maintained" pursuant to the Act, because the required record or records, containing the contents required by the Act, did not exist, thereby thwarting the investigation of the stolen property. As a result, the Respondent, acting directly or through Mr. Radchenko, violated the terms of section 12-306(a).

## 9. RECOMMENDED SANCTION

Having determined that the Respondent violated the Act, I turn to the question of the appropriate sanction. Sanctions and penalties for violation of the Act are set forth in section 12-209, which provides, in pertinent part, as follows:

§ 12-209. Denials, reprimands, suspensions, and revocations -- Grounds; restraining order.

(a) *Grounds*

....

(2) Subject to the hearing provisions of § 12-210 of this subtitle, the Secretary may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee or an agent, employee, manager, or partner of the applicant or licensee:<sup>12</sup>

...

(vii) willfully fails to provide or willfully misrepresents any information required to be provided under this title; [or]

(viii) violates this title[.]

...

Md. Code Ann., Bus. Reg. § 12-209(a)(2)(vii and viii).

At the hearing before me, the DLR sought as a sanction the revocation of the Respondent's SPMO dealer license number 2036-02, licensing the operation of the Reisterstown Road store. I understand that this is the only license the Respondent currently maintains, and that, absent cause, it will not expire until July 9, 2014.<sup>13</sup> Based upon the evidence adduced at the hearing, I am satisfied that the Respondent's license should be revoked. All of the Respondent's dealer licenses should be revoked.

There is no doubt that the Respondent, and his employee and former partner, Mr. Radchenko, were totally aware of the requirements of the Act, both as to the reporting of precious metal transactions and the information to be taken and reported regarding those

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<sup>12</sup> This language clarifies that the Respondent, as the licensed dealer, is responsible for and may be sanctioned for the wrongful conduct of his employees.

<sup>13</sup> If the Respondent has other SPMO licenses currently in effect, then my recommended sanction should apply to each.

transactions, as well as to the maintenance of the records of those transactions. Both individuals had been in the business for numerous years. The Respondent began in the business at least as early as 2001; Mr. Radchenko began at least as early as 2005. Both signed multiple certifications attesting to their knowledge of all requirements imposed upon them pursuant to the Act and the applicable State regulations. Moreover, both as a matter of common sense and based upon the testimony of Detective Fitch, it is clear that Mr. Radchenko knew exactly how to fill out and submit the required Daily Transaction Sheet, because Detective Fitch reviewed that with Mr. Radchenko in August 2012. Even were that not the case, however, it would nevertheless have been the Respondent's obligation, as the owner of the Reisterstown Road store, to make sure that both he and Mr. Radchenko knew how to comply with the content and reporting requirements of the Act.

As a result, I am satisfied that the Respondent, directly *and* through the actions of Mr. Radchenko, violated numerous provisions of the Act, thereby exposing the Respondent to possible revocation pursuant to section 12-209(a)(2)(viii) of the Act. Even more critical to my recommendation, however, I am satisfied that the Respondent *willfully and knowingly* violated the terms of the Act. Md. Code Ann., Bus. Reg. 12-209(a)(2)(vii). The Respondent clearly bore the responsibility to know the requirements of the Act and attested on repeated occasions that he did know those requirements. According to Mr. Radchenko, the Respondent did most of the buying of gold. Assuming that is true, and assuming further that the Respondent was responsible for creating, maintaining and transmitting to the DLR the required information, then I am satisfied, for the reasons stated below, that the Respondent willfully and knowingly violated the Act.

Moreover, even assuming that Mr. Radchenko were responsible for the recordkeeping and record submission, the Respondent still bears responsibility if Mr. Radchenko willfully and

knowingly violated the Act. Md. Code Ann., Bus. Reg. 12-209(a)(2). The Respondent knew that he bore responsibility for the conduct of his employee, and thus knew of the importance of ensuring that Mr. Radchenko knew and followed the Act's requirements.

As to both the Respondent and Mr. Radchenko, it is simply not plausible to believe that, with all their knowledge, their years in the business, their intimate business relationship, and their knowledge of the consequences of failing to meet their responsibilities under the Act, either of these individuals somehow innocently failed to meet their transactional and reporting requirements, both when dealing with the 38 pieces of stolen jewelry and, more generally, in conducting the overall business. They both knew their responsibilities under the Act, and the Respondent, whether directly or through Mr. Radchenko, willfully and knowingly violated those responsibilities in multiple ways.

This conclusion is bolstered by other factors brought out in this matter. While one might believe that a dealer innocently failed to create and submit a necessary record in an isolated case, there was no such isolated case here. Detective Fitch had the records of the Reisterstown Road store checked and found that no actual transactions had been reported from the day the store opened in August 2012 through the time of the November 7, 2012 investigatory visit. It is beyond credulity to believe that no transactions occurred during that period or that both Mr. Radchenko and the Respondent were unaware of those transactions. Further, when Detective Fitch and the other investigators did see the records at the Reisterstown Road store, they found partially completed Daily Transaction Sheets that were missing vital information about the transactions they apparently reflected. This again supports the notion that whoever prepared these incomplete records at least knew he had to fill out the Daily Transaction Sheet for every transaction, yet knowingly failed to do so at all for most transactions, and knowingly failed to

provide complete information as to the transactions represented by the incomplete Daily Transaction Sheets (assuming they represented completed transactions).

The failure to create, retain and submit the information required by the Act is not an inconsequential matter. The Respondent's violations are serious. The principal purpose of the Act's elaborate recordkeeping requirements is self-evident -- to aid in the apprehension of thieves and inhibit trafficking in stolen goods. Law enforcement officials are supposed to be able to review the records created by the dealer or the dealer's employees and determine whether the acquisitions include any stolen property. When transactions are not reported or incompletely reported, that thwarts the purpose of the Act by hampering law enforcement's efforts to find, retrieve and return stolen goods and apprehend those responsible for the thefts. The consequences of violating the Act are amply illustrated in this case. But for the fact that the law enforcement agencies had initiated an investigation of the burglaries here involved, and identified the likely burglars, the stolen property could have passed through the Respondent's hands and disappeared, leaving the police at a serious disadvantage and the victims at a total loss.

I do not know whether the Respondent or Mr. Radchenko knew they were trafficking in stolen goods, but they certainly knew of their responsibilities under the Act and turned a blind eye to those responsibilities. As a result, I recommend that the Respondent's SPMO dealer's license be revoked.

#### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the Respondent violated Md. Code Ann., Bus. Reg. §§ 12-301(a) and (f); 12-302(a); 12-303; 12-304(a)(1), (b)(1) and (c)(1)-(3); 12-305(d); and 12-306(a). I conclude as a matter of law that the Respondent did not violate Md. Code Ann., Bus. Reg. § 12-305(c). I further conclude as a

matter of law that the Respondent is subject to sanctions pursuant to Md. Code Ann., Bus. Reg. § 12-209.

**RECOMMENDED ORDER**

Based upon the foregoing Findings of Fact, Discussion, and Conclusions of Law, I

**RECOMMEND** an ORDER that

1. the Respondent's license to act as a Secondhand Precious Metal Object Dealer be **REVOKED**; and
2. the records and publications of the Maryland Department of Labor Licensing and Regulation, Board of Secondhand Precious Metal Object Dealers and Pawnbrokers, reflect this decision.

March 27, 2014  
Date decision issued

HRA/tc  
Doc. #148322

ADMINISTRATIVE LAW  
JUDGE'S SIGNATURE  
ON ORIGINAL DOCUMENT  
**Henry R. Abrams**  
**Administrative Law Judge**



MARYLAND DEPARTMENT OF  
LABOR, LICENSING AND  
REGULATION

v.

ANTHONY GELFEN,  
RESPONDENT

\* BEFORE HENRY R. ABRAMS,  
\* AN ADMINISTRATIVE LAW JUDGE  
\* OF THE MARYLAND OFFICE  
\* OF ADMINISTRATIVE HEARINGS  
\* CASE NO.: DLR-PMG-64-13-35522  
\* COMPLAINT NO.: SPMG-13-0025  
\*

\* \* \* \* \*

**FILE EXHIBIT LIST**

The DLR submitted the following exhibits, which I admitted into evidence:

- DLR Ex. 1     October 1, 2013 Notice, together with September 3, 2013 Statement of Charges and Order for Hearing
  
- DLR Ex. 2     DLR I.D. Registration – SPMO Dealers record re: the Respondent’s SPMO license no. 2036, doing business as Old Town Jewelry, Inc., 529 Old Town Mall, Baltimore, Maryland 21202, first issued September 25, 2001, and renewed and effective to September 25, 2005<sup>14</sup>
  
- DLR Ex. 3     DLR I.D Registration – SPMO Dealers record re: the Respondent’s SPMO license no. 2036-01, doing business as Crown Jewelers in partnership with Yvegeniy Radchenko, 10300 Mill Circle Run, Owings Mills, Maryland 21117, first issued September 7, 2005, and renewed and effective to September 7, 2013
  
- DLR Ex. 4     DLR SPMG Dealers Application for Original License/Certificate for the Respondent and Mr. Radchenko, doing business as Crown Jewelers
  
- DLR Ex. 5     DLR I.D. Registration – SPMO Dealers record re: the Respondent’s SPMO license no. 2036-02, doing business as Crown Jewelers, Cheery [sic] Valley Shopping Center, 11612 Reisterstown Road, Reisterstown, Maryland 21136, issued and effective July 9, 2012 to July 9, 2014

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<sup>14</sup> DLR prepares a new license record, indicated by a numerical suffix appended to the main license number, for each separate location of a dealer.

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0 0 0 0
- DLR Ex. 6 December 18, 2012 DLR SPMO Program Law Enforcement Complaint Referral Form report re: the Respondent
  - DLR Ex. 7 Undated DLR SPMO Original License Application Form in effect in July 2012 (as it appeared on the DLR's website)
  - DLR Ex. 8 Undated DLR SPMO License Renewal Form in effect in August 2009 and September 2011(as it appeared on the DLR's website)
  - DLR Ex. 9 Undated DLR SPMO Daily Transaction Report Form/Data Required For Electronic Filing
  - DLR Ex. 10 January 2010 Guidelines for Completing and Filing Daily Transaction Reports