

MARYLAND DEPARTMENT OF
LABOR, LICENSING
AND REGULATION

v.

JAMES ACCINELLI,

Respondent

* BEFORE THE MARYLAND
* DEPARTMENT OF LABOR,
* LICENSING AND REGULATION
* COMPLAINT NO. SPMG-14-0018
*

* * * * *

CONSENT ORDER

This matter comes before the Maryland Department of Labor, Licensing and Regulation ("Department") based on a complaint filed by the Anne Arundel County Police Department against James Accinelli ("Respondent"). Based on that complaint, the Department determined that administrative charges against the Respondent were appropriate and that a hearing on those charges should be held. This matter was heard by an Administrative Law Judge ("ALJ") of the Office of Administrative Hearings on January 5, 2015. On April 6, 2015, the ALJ issued a decision in which he recommended that the Respondent's license as a secondhand precious metal object dealer be revoked. On May 6, 2015, the Department issued a proposed order affirming the ALJ's recommended decision. The Respondent filed exceptions to the proposed order, and a hearing on those exceptions was scheduled for September 25, 2015 before Kelly M. Schulz, Secretary of the Department. However, the Respondent and the Department reached an agreement to resolve this case without the exceptions hearing, which was, therefore, cancelled. The Department and the Respondent consent to the entry of this Order as final resolution of this action as to the administrative charges in Complaint No. SPMG-14-0018.

IT IS STIPULATED BY THE PARTIES that:

1. The Respondent has been licensed as a secondhand precious metal

object dealer ("dealer") (License No. 2349) since 1995 and was licensed in that capacity at all relevant times in the matter at issue.

2. The Respondent's dealer's license expires October 21, 2017.

3. On ^{or about} December 14, 2013, the Respondent bought six stolen secondhand precious metal objects ("objects") from Michael Swader ("Swader").

4. At the time of that transaction, the Respondent completed a paper transaction reporting form ("form") by altering a form he had completed on August 23, 2011 with another seller, L.F., in an unrelated transaction.

5. The form, which the Respondent completed on December 14, 2013, identified Swader as the seller but failed to include required identification information about him, i.e., whether he had a beard, mustache, tattoos, scars, or glasses and whether he was known to the Respondent.

6. The form showed December 14, 2013 as the date of the transaction with Swader and included two possible times for that transaction.

7. The form showed three possible transaction numbers for the transaction with Swader.

8. The Respondent had Swader sign the form as the buyer, or dealer, certifying that the information on the form was true and correct; the Respondent did not sign the form, as required.

9. The Respondent failed to have Swader sign the form, certifying that he was the true owner of the objects, as required; instead, the form included the signature of L.F. as the true owner.

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m / KMS

10. The Respondent described the objects bought from Swader only as "bracelets" on the form. In addition, he failed to report the number of bracelets bought; he failed to note whether the bracelets had any monograms, inscriptions, jewels, or stones; he failed to note the bracelets' approximate metallic composition; he failed to indicate whether the bracelets had been altered; and he failed to provide the weight of the bracelets.

11. The form showed that the Respondent paid \$200.00 for the objects.

12. On December 15, 2013, on or about 3:08 p.m., the Respondent entered the transaction with Swader into the Regional Automated Property Information Database ("RAPID"), the electronic reporting system for secondhand precious metal object transactions.

13. The Respondent entered information showing the purchase of two objects from Swader and a payment of \$175.00 for those objects.

14. The Respondent entered the date of the transaction as December 14, 2003 rather than 2013 and misspelled Swader's first name.

15. On December 15, 2013, sometime after 4:31 p.m., as part of an investigation into the theft of jewelry by Swader, Corporal Paul Dziwanowski of the Anne Arundel County Police Department searched RAPID for any transactions involving Swader.

16. Corporal Dziwanowski found no records of transactions involving Swader.

17. On ^{or about} December 24, 2013, as part of his theft investigation, Corporal

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Dziwanowski went to the Respondent's business and recovered the form completed on December 14, 2013 and the six objects bought from Swader.

18. In mid-January, 2014, Detective Jennifer Long of the Anne Arundel County Police Department searched RAPID for any transactions involving Swader and the Respondent.

19. Detective Long's search automatically defaulted to a 6-month period.

20. Detective Long's search found no record of transactions between the Respondent and Swader.

21. Corporal Dziwanowski and Detective Long were unable to locate any record of transactions between the Respondent and Swader in RAPID because the Respondent had entered the transaction year as 2003, not 2013, and because he had misspelled Swader's first name.

22. At the time of his original license application and for each subsequent license renewal, the Respondent affirmed under penalty of perjury that he had read each section of the secondhand precious metal object dealers statute and COMAR 09.25.01.01-.05 and that he understood his responsibilities under the law.

23. The Respondent entered into a Consent Order on May 3, 2010 in Complaint No. SPMG-10-0092, in which the Respondent agreed that he had violated statutory requirements concerning the reporting of transactions involving objects and received a reprimand and a \$750.00 civil penalty for those violations.

24. In that Consent Order, the Respondent also agreed to comply with statutory and regulatory requirements.

25. At the time of the transaction at issue in Complaint No. SPMG-14-0018, the Respondent was aware of statutory requirements concerning the proper reporting of objects to law enforcement.

26. The Respondent enters this Consent Order freely, knowingly, and voluntarily, and with the advice of counsel.

27. By entering into this Consent Order, the Respondent expressly waives the right to any hearing or further proceedings to which he may be entitled in this matter and any rights to appeal from the Consent Order.

28. The Respondent agrees to abide by the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act, Maryland Annotated Code, Business Regulation Article, §12-101 *et seq.*, and regulations of the Department in future transactions.

BASED ON THESE STIPULATIONS, IT IS, THIS 9th day of October, 2015, BY THE MARYLAND DEPARTMENT OF LABOR, LICENSING AND REGULATION,

ORDERED that Respondent has violated Business Regulation Article, Maryland Annotated Code, §§12-209(a)(2)(ii), (vii), and (viii), 12-301(a), (b)(1), (2), and (3) (xii), and (c), 12-304(a)(1), (b)(1) and (c), and 12-402, and it is further

ORDERED that the Respondent's dealer license (License No. 2349) is suspended for 90 days effective October 9, 2015, and it is further

ORDERED that the Respondent is assessed a total civil penalty of \$1,000.00 for those violations, which amount is payable to the Department in four equal monthly installments, due on the fifteenth of each month, beginning on October 15, 2015 and continuing through and including January 15, 2016, and it is further

ORDERED, that, if payment of the total civil penalty is not made by January 15, 2016, the Respondent's dealer's license (License No. 2349) shall be automatically suspended, and he shall remain ineligible for renewal or reinstatement of that license, until payment of the total civil penalty is made, and it is further

ORDERED, that, during the period of suspension, the Respondent may not acquire, in any manner, including, but not limited to, purchase, pawn, or consignment, any secondhand precious metal objects and may not sell or trade with members of the public any secondhand precious metal objects. However, the Respondent may, during the suspension period, allow members of the public to redeem pawned secondhand precious metal objects or items 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 meanings of §12-101 *et seq.* of the Business Regulation Article, and it is further

ORDERED that the Department's records and publications shall reflect the terms of this Consent Order.

Signature on File

JAMES ACCINELLI

10/6/15
DATE

Signature on File

KELLY M. SCHULZ, SECRETARY
MARYLAND DEPARTMENT OF LABOR,
LICENSING AND REGULATION