

DEPARTMENT OF LABOR  
LICENSING AND REGULATION,

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v.

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CASE NO: SPMG 15-0011

JOHN GREGG SHMERLER  
Baltimore Diamond Exchange, Inc.,  
dba Radcliffe Jewelers,

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Respondent

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**CONSENT ORDER**

This matter comes before the Maryland Department of Labor, Licensing and Regulation (“Department”) as a result of complaints filed by the Baltimore County Police Department on July 9, 2014. Upon a review of the complaint, the Department has determined that administrative charges against John Gregg Shmerler (the “Respondent”) Baltimore Diamond Exchange, Inc., 1840 Reisterstown Road, Baltimore, Maryland 21208 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 (License No. 01-2380, holds a secondhand precious metal object dealers and pawnbrokers licenses with the Department, which was initially issued on January 17, 2010 at 1840 Reisterstown Road, Baltimore, Maryland, 21208.
3. On January 28, 2014, the Baltimore County Police Department audited the electronic filing of secondhand precious metal object transactions filed by the Respondent. The audit found that the Respondent or the Respondent’s authorized employee, in filing these transactions, violated the provisions of the Maryland Secondhand Precious Metal Object Dealer’s and Pawnbrokers Act as follows:
  - A. On October 8, 2013, in Transaction No. 10082013. reported on one line the acquisition of ladies silver jewelry as ”ladies sterling silver scrap silver, two

bangles, one pair hoop earrings, one pair beaten triangular earrings, one pair studs, 21.5 dwt”, instead of separating each item.

- B. On October 10, 2013, in Transaction No. 10102013. reported on one line the acquisition of 8 mismatched hoop earrings “ladies 14 k yellow gold earrings”, instead of separating each item.
- C. On October 12, 2013, in Transaction No. 1012201302, also reported on one line the acquisition of “scrap jewelry, ladies sterling silver scarp silver, misc. broken bracelets, pins, necklaces, and earrings, weight 350 dwt.”, instead of separating each item.
- D. On November 12, 2013, in Transaction No. 11122013, reported on one line the acquisition of “jewelry, ladies 14 k yellow gold bracelet, seven charm bracelet, two charms are loose, dwt. 13.9”, but failed to describe the charms.

4. The Respondent acknowledges that he knew, or his authorized employee should have known, of the requirements of the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act which require a thorough description of items that acquired and that each item be separately reported.

5. Based on the aforementioned facts, the Respondent acknowledges the Respondent has violated Business Regulation Articles §§ 12-301 and 302, Annotated Code of Maryland, and Code of Maryland Regulations, which provide:

**§12-301. Required records.**

(a) (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.

(b) Each pawnbroker shall make a written record, on a form provided by the Secretary, of each business transaction that involves:

(1) lending money on pledge of personal property, other than a security or printed evidence of indebtedness; or

(2) buying personal property on condition of selling it back at a stipulated price; or

(3) buying the following items for the purpose of resale:

- (i) binoculars;
- (ii) cameras;

- (iii) firearms;
- (iv) furs;
- (v) household appliances;
- (vi) musical instruments;
- (vii) office machines or equipment;
- (viii) radios, televisions, videodisc machines, videocassette recorders, and stereo equipment;
- (ix) personal computers, tapes, and disc recorders;
- (x) watches;
- (xi) bicycles; and
- (xii) tangible personal property pledged as collateral.

(c) Each pawnbroker shall make a written record, on a form provided by the Secretary, of each transaction that involves the acquisition of an item described in subsection (b)(3) of this section for the purpose of resale.

(d) (1) A separate record entry shall be made for each item involved in a transaction.

(2) Items in a matching set may be recorded as a set if acquired in a single transaction.

(e) (1) 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.

(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.

(f) For the purposes of this subtitle, there is a presumption that an object is a precious metal object if:

(1) it reasonably appears to be a precious metal object; and

(2) 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.

### **§12-302. Contents of records.**

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

(1) the date, place, and time of each transaction that involves the acquisition of a precious metal object;

- (2) the name and address of the principal, if the transaction is by an agent;
- (3) a description of the precious metal object, including:
  - (i) its approximate metallic composition;
  - (ii) any jewels, stones, or glass parts;
  - (iii) any mark, number, word, or other identification on the precious metal object;
  - (iv) its weight, if payment is based on weight;
  - (v) a statement whether it appears to have been altered by any means, including:
    - 1. obscuring a serial number or identifying feature;
    - 2. melting; or
    - 3. recutting a gem; and
  - (vi) the amount paid or other consideration;
- (4) for each individual from whom the dealer acquires a precious metal object:
  - (i) the name, date of birth, and driver's license number of the individual; or
  - (ii) identification information about the individual that:
    - 1. positively identifies the individual from at least 2 forms of identification, which may include an age of majority card, military identification, or passport; and
    - 2. provides a physical description of the individual, including the sex, race, any distinguishing features, and approximate age, height, and weight of the individual;
- (5) a statement indicating whether or not the person making the transaction is personally known to the dealer; and
- (6) the signature of the person from whom the precious metal object or personal property is acquired and the dealer or employee who accepted the precious metal object.
- (b) In addition to any other information required by the Secretary, the records of a pawnbroker shall include, for each item pawned:
  - (1) the type of item;

- (2) its manufacturer, model number, year of manufacture if known, and serial number if known; and
- (3) its color and size.

6. Based on the aforementioned violations, the Respondent agrees to pay to the Department a civil penalty of \$ 500.00 upon the Respondent's execution of this Consent Order.

7. The Respondent further agrees that The Respondent 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.

8. 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.

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

10. Upon the execution of this Consent Order, the Department will record this complaint as closed and will pursue no additional disciplinary action in this matter. However, if the Respondent commits violations of secondhand precious metal object laws in the future, the Department may, pursuant to Section 12-209(a)(3)(ii) of the Business Regulation Article of the Maryland Annotated Code, consider this Consent Order in determining the appropriate discipline for those future violations or in determining whether the Respondent is entitled to renew his license.

BASED ON THESE STIPULATIONS, IT IS, THIS 18<sup>th</sup> DAY OF November, 2014, BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION:

**ORDERED** that the Respondent has violated Business Regulation Articles §§, 12-301 and 302, Annotated Code of Maryland;

**ORDERED** that the Respondent is, hereby, reprimanded;

**ORDERED** that the Respondent be assessed a civil penalty of \$500.00 for the violation, which amount is to be 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 \$ 500.00 imposed on the Respondent.

RESPONDENTS SIGNATURE  
ON ORIGINAL DOCUMENT  
**John Gregg Shmerler**

DEPUTY SECRETARY'S SIGNATURE  
ON ORIGINAL DOCUMENT  
**Scott Jenson, Deputy Secretary**

11/5/2014  
Date