

BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT  
STATE OF OKLAHOMA

STATE OF OKLAHOMA,                    )  
ex rel., DEPARTMENT OF                )  
CONSUMER CREDIT                        )  
  )  
      Petitioner                            )  
  )  
v.    )  
  )  
BOLES MANAGEMENT, INC.                )  
d/b/a BOLES JEWELRY,                    )  
  )  
      Respondent                            )

Case No. 11-0025-DIS



FINAL AGENCY ORDER

1. This matter was heard October 10, 2011, at 1:30 p.m. before Bryan Neal, Assistant Attorney General and Independent Hearing Examiner appointed by the Administrator of Consumer Credit at the Office of the Oklahoma Department of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, Oklahoma 73112. The State of Oklahoma, ex rel. Oklahoma Department of Consumer Credit (the "Department"), was represented by the Department's General Counsel Roy John Martin and the Respondent Boles Management, Inc. d/b/a Boles Jewelry located at 2301 SE Washington Boulevard, Bartlesville, OK 74006 (the "Respondent"), did not appear.

2. Pursuant to the requirements of Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 308a-323, a copy of the Notice of Hearing filed in this matter on August 31, 2011, was mailed by first class certified U.S. Mail Return

Receipt Requested, to the Respondent at 2301 SE Washington Boulevard, Bartlesville, OK 74006 and was accepted by Lori Rose, a representative of the Respondent who accepted service of the Notice of Hearing on September 3, 2011, as evidenced by the Return Receipt signed by Lori Rose on September 3, 2011.

3. After reviewing the administrative record of this individual proceeding, reviewing the arguments, testimony and evidence presented at the October 10, 2011 hearing and reviewing the proposed order filed January 30, 2012 by Independent Hearing Examiner, Bryan Neal, the Administrator of Consumer Credit issues the following findings, conclusions and orders:

#### JURISDICTION AND AUTHORITY

1. The Administrator of the Department of Consumer Credit is charged with the administration and enforcement of the Precious Metal and Gem Dealer Licensing Act, 59 O.S. § 1521 et seq. and Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 308a-323.

2. No person, unless exempt by the Precious Metal and Gem Dealer Licensing Act, 59 O.S. § 1521 et seq., shall operate as a precious metal dealer or employee without first obtaining a license from the Administrator specifically authorizing the person to act in such capacity. 59 O.S. § 1523.

3. Any Entity or individual offering to engage or who is engaged as a precious metal and gem dealer in this state without

a license shall be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00). 59 O.S. § 1528 (F).

4. The proceedings were conducted in accordance with the provisions of the Precious Metal and Gem Dealer Licensing Act, 59 O.S. § 1521 et seq. and Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 308a-323.

#### FINDINGS OF FACT

The Administrator of Consumer Credit finds the following facts were proven by clear and convincing evidence:

1. The Department received an anonymous complaint in January 2011 alleging that the Respondent had been advertising it purchased used gold and diamonds since October 2010.

2. The anonymous complaint received by the Department in January 2011 included a photograph dated December 28, 2010, depicting the Respondent's business location at 2301 SE Washington Boulevard, Bartlesville, OK 74006, and a banner hanging outside in front of the said business location visible to the public stating "We Buy Gold and Diamonds", a copy of which photograph was admitted into evidence as Exhibit 1.

3. The Department submitted a letter to the Respondent dated January 26, 2011, indicating that the Respondent may be engaged or offering to engage as a precious metal and gem dealer in the State of Oklahoma without a license, a copy of which letter was submitted as Attachment 2 to the Notice of Hearing.

Said letter instructed the Respondent to either submit a precious metal and gem dealer license application within ten (10) days of its receipt of said letter or submit documentation that a license was not required within ten (10) days of receipt of the Department's January 26, 2011, letter. The Respondent received the Department's January 26, 2011, letter on January 28, 2011.

4. The Respondent failed to submit either a precious metal and gem dealer license application within ten (10) days of receipt of said letter or documentation that it was not required to obtain a precious metal and gem dealer license in the State of Oklahoma within ten (10) days of receipt of the Department's January 26, 2011, letter.

5. On April 13, 2011, Consumer Credit Examiners Karen Banks and Vanessa Todd personally visited the Respondent's business location at 2301 SE Washington Boulevard, Bartlesville, OK 74006, and photographed a sign posted in a window at said business location visible to the public that read as follows: "Boles Jewelry We Buy Gold", a copy of which photograph was admitted into evidence herein as Exhibit 2.

6. On April 13, 2011, Consumer Credit Examiners Karen Banks and Vanessa Todd personally entered the Respondent's business premises at 2301 SE Washington Boulevard, Bartlesville, OK 74006, and each Examiner received a verbal offer from a Clerk

named "Jim" to purchase the used gold jewelry they had brought in for possible sale.

7. On April 13, 2011, Consumer Credit Examiner Vanessa Todd was offered \$210.00 for her jewelry by a Clerk named "Jim", which jewelry consisted of one gold coin ring and two gold rings with diamonds. Ms. Todd's testimony was not controverted.

8. On April 13, 2011, Consumer Credit Examiner Karen Banks was offered \$110.00 for her jewelry by a Clerk named "Jim", which jewelry consisted of a 10 karat gold wedding band and a 14 karat gold ring with ruby and diamond chips. Ms. Banks' testimony was not controverted.

9. Consumer Credit Examiner Vanessa Todd testified that on April 13, 2011, while at the Respondent's business location she noticed that the conditions depicted in the two (2) photographs admitted herein as Exhibits 1 & 2 respectively, were accurate as to the presence of a banner advertising "We Buy Gold & Diamonds" hanging outside in front of the said business location of the Respondent visible to the public at 2301 SE Washington Boulevard, Bartlesville, OK 74006, in Exhibit 1 and the presence of a sign posted in a window at said business location that read as follows: "Boles Jewelry We Buy Gold" in Exhibit 2. Ms. Todd testified that upon her arrival at the business location of the Respondent at 2301 SE Washington Boulevard, Bartlesville, OK 74006, she observed that there were

one or two representatives of the Respondent present on the business premises of the Respondent behind a jewelry counter, both of whom were women, another representative of the Respondent (who was a man later identified as the Clerk named "Jim") was in the process of assisting two other customers at a different jewelry counter, that the business premises had the appearance of a regular jewelry store and that there was a room in the rear of the business premises that appeared to be a jewelry repair area. Ms. Todd's testimony was not controverted.

10. Consumer Credit Examiner Karen Banks testified that on April 13, 2011, while at the Respondent's business location she was informed that in order to sell any gold she had, that she would have to speak with the Clerk named "Jim" as he was the only representative present who was actually buying any used gold and that before he made her an offer to purchase her used gold, that he went to the backroom and then re-appeared to make her a verbal offer to purchase her gold rings for \$110.00. Ms. Banks' testimony was not controverted.

11. Licensing Supervisor Lindsie Lundy of the Licensing Department of the Department of Consumer Credit, who in such capacity is familiar with the Department's licensing records of Oklahoma licensed-precious metal and gem dealers, testified that the Respondent was not state licensed on April 13, 2011, was not then currently state licensed and that she could find no record

that the Respondent had ever been licensed as a precious metal and gem dealer in the State of Oklahoma. Ms. Lundy further testified that as of October 3, 2011, there was an application from the Respondent for Oklahoma licensure pending which was incomplete as of the date of the Hearing, a copy of which was admitted into evidence as Exhibit 3. Ms. Lundy's testimony was not controverted.

#### CONCLUSIONS OF LAW

The Administrator of Consumer Credit concludes that based on the evidence and testimony in this individual proceeding that:

1. The Respondent has violated 59 O.S. § 1523 by operating as a precious metal and gem dealer or employee thereof without first obtaining a license from the Administrator specifically authorizing the Respondent to act in the capacity of a "Dealer" as that word is defined in 59 O.S. § 1522.

2. The Respondent has violated 59 O.S. § 1528 (F) by offering to engage as a precious metal and gem dealer in the State of Oklahoma without a precious metal and gem dealer license by placing two (2) advertisements visible to the public at the business location of the Respondent at 2301 SE Washington Boulevard, Bartlesville, OK 74006, including a banner indicating that the Respondent was purchasing gold and diamonds at that business location on April 13, 2011, in front of the business

premises and including a sign in a front window at that business location that the Respondent Boles Jewelry buys gold as well as making verbal offers to purchase gold and diamonds at the said business location.

#### ORDER

Based upon the findings of fact and conclusions of law in this individual proceeding and based upon the recommendation of the Independent Hearing Examiner, the Administrator of Consumer Credit issues the following orders:

1. The Respondent, having been found to be a "Dealer" as that word is defined in 59 O.S. § 1522, operating as a precious metal and gem dealer or employee thereof without first obtaining a license from the Administrator as required under 59 O.S. § 1523 to act in such capacity, is assessed a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) as authorized in 59 O.S. § 1528 (F) and Respondent is assessed the costs of the Hearing Examiner incurred in this matter as authorized in 59 O.S. § 1528 (A).

2. The Respondent, having been found to be a "Dealer" as that word is defined in 59 O.S. § 1522, operating as a precious metal and gem dealer or employee thereof without first obtaining a license from the Administrator as required under 59 O.S. § 1523 to act in such capacity, since at least April 13, 2011, and continuing to do so through and including October 10, 2011,

shall immediately cease and desist from operating as a precious metal and gem dealer or employee thereof without first obtaining a license from the Administrator as required under 59 O.S. § 1523 to act in such capacity and to permanently continue to so cease and desist until such time, if ever, as the Respondent obtains a license from the Administrator as required under 59 O.S. § 1523 to act in such capacity and until the civil penalties and hearing costs assessed in this order have been paid and processed.

So ordered on this 8<sup>th</sup> day of March 2012.



A handwritten signature in black ink, appearing to read "Scott Lesher", written over a horizontal line.

Scott Lesher  
Administrator of Consumer Credit  
State of Oklahoma

AFFIDAVIT OF SERVICE

STATE OF OKLAHOMA )  
 )  
COUNTY OF OKLAHOMA )

Roy John Martin states under oath as follows:

- 1. I am the attorney for the Petitioner, State of Oklahoma, ex rel., Department of Consumer Credit.
- 2. On March 9, 2012, I received the Final Agency Order in this action and on March 9, 2012, I mailed a copy of the attached Final Agency Order in case number 11-0025-DIS by certified mail, return receipt requested to the Respondent at 2301 SE Washington Boulevard, Bartlesville, OK 74006.
- 3. Attached are a copy of the certified mail receipt and return receipt showing the Final Agency Order was accepted at 2301 SE Washington Boulevard, Bartlesville, OK 74006 on March \_\_\_\_\_ 2012.

\_\_\_\_\_  
Roy John Martin  
Affiant

Signed and sworn to (or affirmed) before me on  
\_\_\_\_\_ by Roy John Martin.

(Seal, if any)

\_\_\_\_\_  
Title (and Rank) Notary Public

My commission expires:  
\_\_\_\_\_