BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT
STATE OF OKLAHOMA

FILED
JUN 15 2012
STATE OF OKLAHOMA
DEPARTMENT OF
CONSUMER CREDIT

STATE OF OKLAHOMA, ex rel., DEPARTMENT OF CONSUMER CREDIT,	)	
Petitioner	)	
v.	)	Case No. 11-0025-DIS
BOLES MANAGEMENT, INC., d/b/a BOLES JEWELRY,	)	
Respondent	)	

FINAL AGENCY ORDER UPON RECONDSIDERATION

1. This matter was heard May 21, 2012, at 1:31 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 Order Granting Reconsideration filed in this matter

on April 18, 2012, was mailed by first class certified U.S. Mail Return Receipt Requested, to the Respondent's attorney at P.O. Box 720, Nowata, OK 74048 and was accepted by Ashley J. Schorherr, a representative of the Respondent who accepted service of the Order Granting Reconsideration on April 13, 2012, as evidenced by the Return Receipt signed by Ashley J. Schorherr on April 13, 2012.

3. After reviewing the administrative record of this individual proceeding, reviewing the arguments, testimony and evidence presented at the May 21, 2012 reconsideration hearing and reviewing the proposed order filed May 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 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 finds the following facts were proven by clear and convincing evidence:

1. The Respondent had notice and an opportunity for a hearing pursuant to the Order Granting Reconsideration filed herein on April 18, 2012, in order to present alleged newly discovered or newly available evidence, relevant to the issues, as provided in said Order Granting Reconsideration, but chose not to appear or failed to appear through its attorneys who filed an Entry of Appearance herein on March 19, 2012, and the Respondent through its Attorneys made no request for a continuance to the Department through its General Counsel Roy John Martin, either by telephone or by written motion.

2. Due to the Respondent's choice not to appear or failure to appear through its Attorneys at the hearing scheduled and

held on May 21, 2012, after notice thereof pursuant to the Order Granting Reconsideration, the Respondent did not present any alleged newly discovered or newly available evidence, relevant to the issues at the reconsideration hearing scheduled and held on May 21, 2012, through testimony, by exhibit or otherwise.

3. There being no presentation by the Respondent of any alleged newly discovered or newly available evidence, relevant to the issues at the hearing on reconsideration held herein, the Findings of Fact listed in the Final Order filed herein on March 8, 2012, numbered 1 through and including 11, are hereby restated herein in full, incorporated herein by reference and made a part hereof as if fully set forth herein and hereby constitute the complete findings of fact in this reconsidered matter.

CONCLUSIONS OF LAW

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

1. Due to the Respondent's choice not to appear or failure to appear through its Attorneys at the reconsideration hearing scheduled and held on May 21, 2012, and the Respondent's corresponding failure to present any alleged newly discovered or newly available evidence, relevant to the issues at the hearing scheduled and held on May 21, 2012, through testimony, by exhibit or otherwise, there is no basis for any additional

conclusions of law in this reconsidered matter.

2. The Conclusions of Law listed in the Final Order filed herein on March 8, 2012, numbered 1 through and including 2, are hereby restated herein in full, incorporated herein by reference and made a part hereof as if fully set forth herein and hereby constitute the complete Conclusions of Law in this reconsidered matter.

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 issues the following orders:

1. The penalty and discipline against the Respondent provided under the heading "Order" listed in the Final Order filed herein on March 8, 2012, numbered 1 through and including 2, is hereby restated herein in full, incorporated herein by reference and made a part hereof as if fully set forth herein.

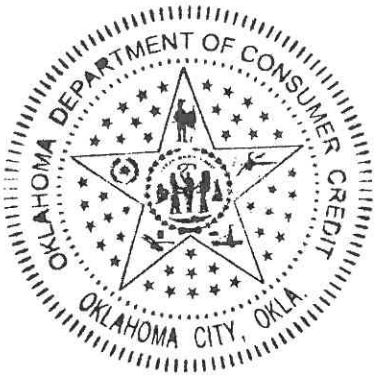
2. The Respondent, based on not being the prevailing party under the Final Order and not being the prevailing party in this reconsidered matter, in addition to the foregoing imposition of penalty and discipline, be further assessed the additional costs of the Hearing Examiner incurred in this reconsidered matter as authorized in 59 O.S. § 1528(A) in the amount of $618.75.

3. The $5,000.00 civil penalty and $1,312.50 in total hearing costs ($693.75 for October 10, 2011 hearing and $618.75 for May 21, 2012 reconsideration hearing) shall be made payable by check or money order to the Oklahoma Department of Consumer Credit and shall indicate case number 11-0025-DIS.

4. The $5,000.00 civil penalty and $1,312.50 in total hearing costs shall be submitted to the attention of Roy John Martin, General Counsel, Oklahoma Department of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, Oklahoma 73112.

5. The $5,000.00 civil penalty and $1,312.50 in total hearing costs shall be received by the Petitioner within ten (10) days of receipt of this order.

So ordered on the 15th day of June 2012.



Scott Lesher
Administrator of Consumer Credit
State of Oklahoma