BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT
STATE OF OKLAHOMA

FILED
DEC 06 2011
Department of
Consumer Credit

STATE OF OKLAHOMA, ex rel., DEPARTMENT OF CONSUMER CREDIT	)	
Petitioner	)	
v.	)	Case No. 11-0027-DIS
INTERNATIONAL COIN COLLECTORS ASSOCIATION	)	
Respondent	)	

FINAL AGENCY ORDER

1. This matter was heard September 26, 2011, at 1:30 p. m. at the Office of the Oklahoma Department of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, Oklahoma 73112 before Bryan Neal, Assistant Attorney General and Independent Hearing Examiner appointed by the Administrator of Consumer Credit. 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 International Coin Collectors Association, temporarily operating at Holiday Inn Express Hotel & Suites, 3825 East Main, Weatherford, OK 73096(the "Respondent"), was represented by Carl R. Buck, of the law firm of Rathbun, Cservenyak & Kozol, LLC, 3260 Executive Drive, Joliet, Illinois 60431. Mr. Buck sent a letter via e-mail to the Department's General Counsel Roy John Martin the morning of the Hearing on September 26, 2011 (the

"Representation Letter"), through an e-mail from his paralegal Lena Bogan, claiming that Mr. Martin knew that his law firm represents the Respondent in the Hearing, a copy of which Notice of Hearing in this matter was attached, claiming that he had just received a copy of the Notice of Hearing from the Respondent and requesting a continuance to an unspecified future date. The Representation Letter contained a case caption for the Respondent's individual proceeding, the name, address, telephone number and a law firm website for Mr. Buck's law firm but did not list an electronic mail address or the Oklahoma Bar Association number of Mr. Buck. The Representation Letter requesting a continuance was dated and received via e-mail the morning of the Hearing, September 26, 2011.

2. The Department's General Counsel Roy John Martin notified Mr. Buck's paralegal Lena Bogan the morning of the Hearing on September 26, 2011, via e-mail that he would present the Representation Letter at the Hearing on behalf of the Respondent but would oppose the request for a continuance as it was not timely filed as required by the Department's Rules at OAC 160: 3-1-4 (f)(1). At the time of the Hearing on September 26, 2011, at 1:30 p.m., no response to Mr. Martin's e-mail had been received.

3. Bryan Neal, the Independent Hearing Examiner

denied the Respondent's request for a continuance in this matter stated in the Representation Letter during the Hearing as it was not timely filed at least seven (7) calendar days prior to the scheduled hearing date and there was not sufficient showing of good cause so as to justify any waiver of the calendar day notification requirement.

4. Pursuant to the requirements of Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 308a-323. Craig Hanson, a representative of the Respondent, was hand-delivered the Notice of Hearing in case number 11-0027-DIS on September 13, 2011, personally by Consumer Credit Examiner James L. Snell as Mr. Hanson was physically present for the Respondent's gold buying event held at the Holiday Inn Express Hotel & Suites, 3825 East Main, Weatherford, Oklahoma 73096.

5. After reviewing the administrative record of this individual proceeding, reviewing the arguments, testimony and evidence presented at the September 26, 2011 hearing and reviewing the proposed order filed November 22, 2011 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 that the following facts were proven by clear and convincing evidence:

1. The Representation Letter requesting a continuance was dated and was received via e-mail the morning of the Hearing, September 26, 2011.

2. It was uncontroverted that on September 10, 2011, that the Respondent had placed an advertisement in the local newspaper, the Weatherford Daily News, Weekender, stating that the Respondent was purchasing, among other things, scrap gold, scrap silver, and broken jewelry on the spot during a gold buying event on September 13 through September 17, 2011 at Holiday Inn Express Hotel & Suites, 3825 East Main, Weatherford, Oklahoma 73096, a photocopy of a portion of which newspaper page 8B containing the Respondent's newspaper advertisement was admitted into evidence herein as Exhibit 1 without objection, indicated the name of the Respondent and the following information:

"This Week Only INTERNATIONAL COIN COLLECTORS are in Weatherford! Paying Cash for all Coins and anything Gold and Silver!" followed in the advertisement (written in the style of a newspaper article) by a sub-heading entitled "What We Buy", under which among other things were the words "Gold Jewelry, Silver Jewelry, Gold Bullion, Diamond rings, bracelets, earrings, loose diamonds, all gem stones, scrap gold, broken jewelry etc." and subsequently followed thereafter in the ad's third column under the sub-heading "Here's How It Works:", are the words: "You will be paid on the spot for your items" and "You will get 100% of the offer with no hidden fees".

3. According to the uncontroverted testimony of Consumer Credit Examiner Drew S'Renco, he received a written complaint from a woman with Kelley Jewelers of Weatherford, Oklahoma, of an unlicensed dealer buying gold and other used precious metals and gems at Holiday Inn Express Hotel & Suites, 3825 East Main, Weatherford, Oklahoma 73096, on September 13, 2011, through September 17, 2011, which unlicensed dealer proved to be the Respondent.

4. Consumer Credit Examiner James L. Snell testified that on September 13, 2011, he personally attended the gold buying event held by the Respondent at Holiday Inn Express Hotel & Suites, 3825 East Main, Weatherford, Oklahoma 73096, at which time he noticed that upon his arrival at the event of the Respondent at Holiday Inn Express Hotel & Suites, 3825 East Main, Weatherford, Oklahoma 73096, he observed that there was a copy of the newspaper ad publicly displayed in the Hotel Lobby, that there were two (2) representatives of the Respondent present on the premises, a man (later identified as Craig Hanson)and a woman, that a set of scales was present for weighing items and the woman representative was viewing a piece of jewelry through means of a jeweler's loupe. While he was in attendance at the gold buying event he witnessed no actual buying or selling activity at that time, although a woman came

in as a customer who indicated that she wanted to sell some used gold to which customer Mr. Hanson asserted that he was not buying any gold other than gold coins only. Mr. Snell's testimony was not controverted.

5. Consumer Credit Examiner James L. Snell testified that on September 13, 2011, he hand-delivered the Notice of Hearing in case number 11-0027-DIS personally to Craig Hanson as a representative of the Respondent while Mr. Hanson was present at the gold buying event held by the Respondent at the Holiday Inn Express Hotel & Suites, 3825 East Main, Weatherford, Oklahoma 73096. Mr. Snell's testimony was not controverted.

6. 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 September 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 nor was there any application for Oklahoma licensure pending as of the date of the Hearing. Ms. Lundy's testimony was not controverted.

CONCLUSIONS OF LAW

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

1. The Department's Rules at OAC 160: 3-1-4 (f)(1) require that a Respondent who wishes to continue a hearing, file a written motion for a continuance with the Department not less than seven (7) calendar days prior to the scheduled hearing date. The Representation Letter containing the written motion for a continuance was not timely filed herein as it was not filed until the actual day scheduled for the Hearing, September 26, 2011, and the cause shown was not sufficient so as to constitute good cause so as to justify any waiver of the calendar day notification requirement.

2. 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.

3. 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 an advertisement in the local newspaper, the

Weatherford Daily News, Weekender, September 10, 2011, Edition, indicating that the Respondent was purchasing, among other things, scrap gold, scrap silver, and broken jewelry during a gold buying event on September 13 through September 17, 2011 at Holiday Inn Express Hotel & Suites, 3825 East Main, Weatherford, Oklahoma 73096.

ORDER

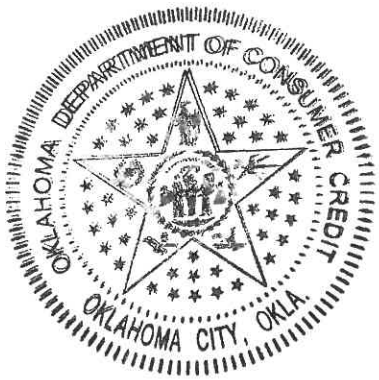
Based upon the findings of fact and conclusions of law in this individual proceeding and the recommendation of the Independent Hearing Examiner, the Administrator of Consumer Credit issues the following orders:

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 the Respondent is assessed the costs of the Hearing Examiner incurred in this matter in the amount of Four Hundred Twelve Dollars and Fifty Cents ($412.50) as authorized in 59 O.S. § 1528 (A). The civil penalty and hearing costs shall be made payable by check or money order to the Oklahoma Department of Consumer Credit,

shall be submitted to Scott Lesher, Administrator of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, Oklahoma 73112 and shall indicate case number 11-0027-DIS.

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 September 7, 2011, and continuing to do so through and including September 7, 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 penalty and hearing costs assessed in this order have been paid and processed.

So ordered this 6th day of December 2011.



Scott Lesher
Administrator of Consumer Credit
State of Oklahoma