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. 11-0026-DIS
THR & ASSOCIATES, Respondent	)	

FINAL AGENCY ORDER

1. This matter was heard September 26, 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 THR & Associates, temporarily operating at Northwest Inn, 3202 1st Street, Woodward, OK 73802 (the "Respondent"), did not appear.

2. Pursuant to the requirements of Article II of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 308a-323. Pam Hanson, a representative of the Respondent, was hand-delivered the Cease and Desist Instanter in case number 11-0026-DIS on

September 7, 2011, personally by Consumer Credit Examiner Brad Custard as Ms. Hanson was physically present for the Respondent's gold buying event held at Northwest Inn, 3202 1st Street, Woodward, OK 73802. A representative of the Respondent, Craig Hanson, entered into an Agreement to Appear or Postpone Hearing Regarding Cease and Desist Instanter Order on September 7, 2011, with the Department pursuant to which Agreement the Respondent agreed to postpone the hearing scheduled for September 7, 2011, to the next available hearing date of September 26, 2011, at the Department's offices at 1:30 p.m. that day, by executing said Agreement, the original of which Agreement was filed herein on September 7, 2011.

3. 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. If the public health, safety, and welfare imperatively requires emergency action, such action, including the suspension of a license instanter or a cease and desist instanter, may be ordered pending the final outcome of proceedings instituted by the Administrator. 75 O.S. §§ 314 (C) (2) and 314.1 and OAC 160: 60-9-3.

5. 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. It was uncontroverted that on or before September 7, 2011, the Respondent prominently displayed a large banner with an advertisement on the side of a two-wheel enclosed trailer visible to the public and parked at Northwest Inn, 3202 1st Street, Woodward, OK 73802, indicating that the Respondent was purchasing, among other things, scrap gold, scrap silver, and broken jewelry during a gold buying event on September 7, 2011 at Northwest Inn, 3202 1st Street, Woodward, OK 73802, a photocopy of which trailer-mounted advertisement displayed on a trailer parked at Northwest Inn, 3202 1st Street, Woodward, OK 73802, was admitted into evidence herein as Exhibit 1 without objection.

2. According to the uncontroverted testimony of Consumer Credit Examiner Brad Custard, he received a written complaint of an unlicensed dealer buying gold and other used precious metals and gems at Northwest Inn, 3202 1st Street, Woodward, OK 73802, on September 7 and 8, 2011, which unlicensed dealer proved to be the Respondent. A second photograph of the trailer-mounted advertisement, a copy of which was admitted into evidence herein without objection as Exhibit 2, indicated the name of the Respondent and the following information:

"Buying Event Here, investment gold, .999 fine silver, scrap gold, scrap silver, sterling silver, pre-1965 coins, gold coins, pre-1934 paper currency, diamonds, wrist and pocket

watches, broken jewelry, fine art, military items, swords, comics, guitars and all other instruments and sports memorabilia, THR & Associates."

3. Consumer Credit Examiner Brad Custard testified that on September 7, 2011, he personally attended the gold buying event held by the Respondent at Northwest Inn, 3202 1st Street, Woodward, OK 73802, at which time he 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 trailer with a banner advertising a gold buying event of the Respondent at Northwest Inn, 3202 1st Street, Woodward, OK 73802. Mr. Custard testified that upon his arrival at the gold buying event of the Respondent at Northwest Inn, 3202 1st Street, Woodward, OK 73802, he observed that there were four (4) representatives of the Respondent present on the premises (one of whom was later identified as Pam Hanson), four (4) tables were setup with pads upon which jewelry could be laid and upon which a jewelry cleaning cloth was present as well as four (4) laptop computers, each of which displayed an advertisement of the gold buying event. Mr. Custard further testified that he noticed that there was a set of scales located upon each desk for weighing items but he witnessed no buying or selling activity as no customers were present at that time. Mr. Custard's testimony was not controverted.

4. Consumer Credit Examiner Brad Custard testified that on September 7, 2011, he hand-delivered the Cease and Desist Instanter in case number 11-0026-DIS personally to Pam Hanson as a representative of the Respondent while Ms. Hanson was present at the gold buying event held by the Respondent at the Northwest Inn, 3202 1st Street, Woodward, OK 73802. Mr. Custard's testimony was not controverted.

5. 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 7, 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.

6. A representative of the Respondent, Craig Hanson, entered into an Agreement to Appear or Postpone Hearing Regarding Cease and Desist Instanter Order on September 7, 2011, with the Department pursuant to which Agreement the Respondent agreed to postpone the hearing scheduled for September 7, 2011, to the next available hearing date of September 26, 2011, at the Department's offices at 1:30 p.m. that day, by executing said

Agreement, the original of which Agreement was filed herein on September 7, 2011, evidencing the fact the Respondent had adequate prior notice of the date, time and place of the hearing and opportunity to attend the hearing.

7. Since the Respondent was not licensed to take, receive, pay for or transfer used precious metals or gems in the State of Oklahoma on September 7, 2011, the public health, safety, and welfare imperatively required emergency action as was taken by the Department ordering the Respondent to cease and desist from operating as a precious metal and gem dealer or employee thereof in the State of Oklahoma and from offering to engage the public as a precious metal and gem dealer in the State of Oklahoma pending the final outcome of proceedings instituted by the Administrator.

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 a large banner with an advertisement on the side of a two-wheel enclosed trailer visible to the public and parked at Northwest Inn, 3202 1st Street, Woodward, OK 73802, indicating that the Respondent was purchasing, among other things, scrap gold, scrap silver, and broken jewelry during a gold buying event on September 7, 2011 at Northwest Inn, 3202 1st Street, Woodward, OK 73802.

ORDER

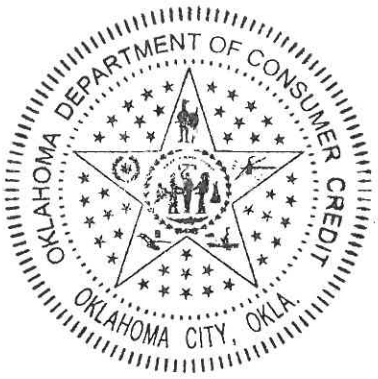
Based upon the findings of fact and conclusions of law in this individual proceeding and based upon the recommendation of the Independent Hearing Examiner, the Administrator of Consumer Credit issues the following orders:

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 in the amount of Four Hundred Twelve Dollars and Fifty Cents ($412.50) as authorized

in 59 O.S. § 1528 (A). The $5,000.00 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 the attention of Scott Lesher, Administrator of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, Oklahoma 73112 and shall indicate case number 11-0026-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 penalties and hearing costs assessed in this order have been paid and processed.

So ordered on this 6th day of December 2011.



Scott Lesher
Administrator of Consumer Credit
State of Oklahoma