

DEPARTMENT OF LABOR
LICENSING AND REGULATION,

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v.

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CASE NO: SPMG 14-0010

BENJAMIN LEE YERKEY
t/a Maryland Gold Exchange

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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 Anne Arundel County Police Department on November 5, 2013. Upon a review of the complaints, the Department has determined that administrative charges against Benjamin Lee Yerkey (the "Respondent") t/a Maryland Gold Exchange, 7300 Ritchie Highway, Suite B. Glen Burnie, Maryland 21061 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 in this Consent Order, the Department had jurisdiction over the subject matter and the Respondent.
2. The Respondent (License No. 01-2557), holds secondhand precious metal object dealers and pawnbrokers license with the Department, which was initially issued on June 10, 2012, t/a Maryland Gold Exchange, 7300 Ritchie Highway, Suite B. Glen Burnie, Maryland 21061.
3. During the period March 27, 2013 through October 25, 2013, an inspection conducted by the Anne Arundel County Police Department, revealed that the Respondent conducted the following transactions, which failed to meet the requirements for describing and reporting precious metals and describing the seller set forth by the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act:

- A. In Transaction No. 00267, dated March 27, 2013, Item #16028404 is described as a 14K yellow ladies gold charm, weighing .6 grams. The description failed to note that the item contained an inscription in an unknown language.
 - B. In Transaction No. 00271, dated March 30, 2013, Item #16095209 is described as a ladies 14K yellow gold bangle, weighing 12.5 grams. The description failed to note that the item contained round diamonds, set in a pattern around the bangle.
 - C. In Transaction No. 00500, dated October 25, 2013, the name of the seller of an item in the transaction was inaccurately spelled.
4. The Respondent failed to electronically file Transaction No. 00301, dated April 22, 2013 until May 13, 2013.
5. The Respondent knew, or should have known, the provisions of the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act which require that secondhand precious metal objects acquired by the Respondent be accurately described, the name of the seller be correct, transaction reports filed with local law enforcement agencies by 12 Noon of the next business day.
6. Based on the aforementioned facts, the Respondent acknowledges the Respondent has violated Business Regulation Articles §§ 301, 302, and 304, Annotated Code of Maryland, 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.

§12-304. Copies to primary law enforcement units.

(a) (1) A dealer shall submit the required information from each record to the primary law enforcement unit in accordance with subsection (b) of this section.

(2) If the dealer transacts business in accordance with § 12-206(b) of this title, the dealer also shall submit the required information from the records to the local law enforcement unit in accordance with subsection (b) of this section.

(3) On the request of a dealer, the Secretary shall provide to the dealer a list of local law enforcement units.

(b) (1) Subject to paragraph (2) of this subsection, the dealer shall submit the records by transmitting the required information from the records electronically, in a format acceptable to the receiving law enforcement unit, by noon of the next business day.

(2) A dealer may request an extension of up to 48 hours to submit the records required under paragraph (1) of this subsection.

(c) Each record, submitted to the primary law enforcement unit and, if applicable, local law enforcement unit, shall include:

- (1) the license number of the dealer;
- (2) the location of each item listed in the record; and
- (3) the information required under § 12-302 of this subtitle.

(d) The required information from a record submitted under this section:

- (1) shall be kept confidential;
- (2) is not a public record; and
- (3) is not subject to Title 10, Subtitle 6 of the State Government Article.

(e) The primary law enforcement unit shall adopt a procedure for a dealer to amend a record required to be submitted under this section.

(f) A law enforcement unit may cease to maintain a record submitted under this section after 1 year from the date the law enforcement unit receives the copy.

7. Based on the aforementioned violations, the Respondent agrees to pay to the Department a civil penalty of \$ 400.00 upon the Respondent's execution of this Consent Order.

8. 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.

9. 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.

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

BASED ON THESE STIPULATIONS, IT IS, THIS 7th DAY OF May, 2014, BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION:

ORDERED that the Respondent has violated Business Regulation Articles §§ 12-301, 302, and 304, Annotated Code of Maryland;

ORDERED that the Respondent is, hereby, reprimanded;

ORDERED that the Respondent be assessed a civil penalty of \$400.00 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 \$400.00 imposed on the Respondent.

RESPONDENT'S SIGNATURE
ON ORIGINAL DOCUMENT
Benjamin Lee Yerkey

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

MARYLAND DEPARTMENT OF LABOR,
LICENSING AND REGULATION

5-3-14
Date