

# ADMINISTRATIVE NOTE

IN

SPMG 15-0002

The Respondent did not exercise the right to file exceptions to the decision of the Secretary of the Department of Labor, Licensing and Regulation in this case pursuant to Code of Maryland Regulations COMAR 09.01.03.09A(1) and stated in the final paragraph of the Proposed Order. As a result, the Order was deemed a final order of the Secretary on April, 27 2015.

**MARYLAND DEPARTMENT OF  
LABOR, LICENSING AND  
REGULATION**

v.

**TARA LYNN CARBO,**

**Respondent.**

**BEFORE THE SECRETARY OF  
THE DEPARTMENT OF LABOR,  
LICENSING AND REGULATION**

**OAH Case No. DLR-PMG-64-14-27232**

**Complaint No. SPMG-15-0002**

---

**PROPOSED DECISION AND ORDER**

The Recommended Decision of the Administrative Law Judge (“ALJ”), issued on December 22, 2014, in the above-captioned case, having been received, read, and considered, it is, by the Secretary of the Department of Labor, Licensing and Regulation (the “Secretary”), this 7<sup>th</sup> day of April, 2015, ORDERED:

- A. That the Findings of Fact in the Recommended Decision be, and here are, ACCEPTED and AFFIRMED;
- B. That the Conclusions of Law in the Recommended Decision be, and here are, ACCEPTED and AFFIRMED except as modified below;
- C. That the Recommended Order be, and here, is MODIFIED as explained below.

**PROPOSED CONCLUSIONS OF LAW**

The laws governing secondhand precious metal object dealers and pawn-brokers provides that the Secretary may “deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee or an agent, employee, manager, or partner of the applicant or licensee . . . violates this title . . .” Md. Code Ann., Bus. Reg. § 12-209 (2010 Repl. Vol.). In this matter, Respondent Tara Lynn Carbo was charged with, and, after an administrative hearing, found to have violated Section 12-206 of the Business Regulation Article of the Maryland Code, which provides:

- (a) A license authorizes the licensee to do business as a dealer only at the address for which the license is issued.
- (b) Notwithstanding subsection (a) of this section, a dealer who holds a license under this subtitle may:
  - (1) make purchases at an estate and judicial sale; and

(2) transact business at the residence of the owner of a precious metal object or a place where the owner keeps a precious metal object:

(i) on request of the owner; and

(ii) after giving written notice of the proposed transaction and its location to the local law enforcement unit with jurisdiction over that location.

Bus. Reg. Art., § 12-206 (2014 Supp.). *See Recommended Decision.*

As explained herein, the Secretary affirms and modifies that decision. As the ALJ concluded, the evidence corroborates that Ms. Carbo intended that the event, which occurred on September 12, 2013, at the Columbia Ice Rink, “was meant to be an appraisal event, following a procedure *for which she understood she had obtained prior approval.*” *See Recommended Decision at 17 (emphasis added).* The Secretary notes, however, that the evidence demonstrates that there may have been some misunderstanding or miscommunication between the representatives of this Department and Ms. Carbo about whether the Agent Form that Ms. Carbo intended to use at appraisal events was acceptable.

Ms. Carbo testified that she had planned for the manager of the ice rink to be the agent for the event in question, but he/she was not able to attend the event because he got sick. (Recommended Decision at 15). Ms. Carbo found another agent to cover the event, who, as the evidence reflects and Ms. Carbo admits, was not properly trained in how to conduct the event and complete the necessary paper work. (Recommended Decision at 16). In particular, the agent “did not instruct [the two prospective sellers] to take their jewelry with them with they left.” (Recommended Decision at 18). The agent had taken “possession of the second hand precious metal objects at the Event, with a promise that the sellers/owners would be paid the next week for those objects.” (Recommended Decision at 18-19). The agent also failed to complete the Transaction Reports for the two sellers, leaving blank spaces in several areas of the Reports. (Findings of Fact ¶¶ 14-16, 19-21). *See also* Md. Code Ann., Bus. Reg. Art., §§ 12-301 and 12-302 (requiring certain records on a form “required by the Secretary” and requiring certain information “in addition to any other information required by the Secretary”).

Therefore, the Secretary agrees with the ALJ’s conclusion that “the Event was clearly run in a haphazard manner and the Respondent was responsible for ensuring that it complied with applicable law.” (Recommended Decision at 19).

Based on the evidence, the Secretary concludes that a reprimand is sufficient punishment in this instance. The Secretary directs her staff to schedule a meeting with Ms. Carbo, within 60

days of this Proposed Order becoming final, in order to review and clarify Ms. Carbo's procedures and forms for use at future appraisal events.

### PROPOSED ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, as Secretary of the Department of Labor, Licensing and Regulation, I hereby ORDER, as follows:

1. The Respondent violated Section 12-206 of the Business Regulation Article of the Maryland Annotated Code;
2. The Respondent is hereby REPRIMANDED, pursuant to Md. Code Ann., Bus. Reg. Art. § 12-209;
3. The Secretary's staff is directed to schedule a meeting with Ms. Carbo within 60 days of this Proposed Order becoming final to review and clarify Ms. Carbo's procedures and forms for use at future appraisal events.

Pursuant to COMAR 09.01.03.09, Respondent has the right to file exceptions to the Proposed Order and present arguments to the Secretary. Respondent has twenty (20) days from the postmark date of this Proposed Order to file exceptions with the Secretary. COMAR 09.01.03.09A(1). The date of filing exceptions with the Secretary is the date of personal delivery to the Secretary or the postmark date on mailed exceptions. COMAR 09.01.03.09A(2).

Unless written exceptions are filed within the twenty day deadline noted above, this Proposed Order shall be deemed to be the FINAL DECISION AND ORDER of the Secretary, which is subject to judicial review pursuant to Md. Code Ann., Bus. Reg. Art., § 12-211.

4-17-15

Date

SECRETARY'S SIGNATURE  
ON ORIGINAL DOCUMENT  
**Kelly M. Schulz, Secretary**

cc: Vickie Wilkins  
Commissioner of Occupational and Professional Licensing

John Papavasiliou  
Deputy Commissioner of Occupational and Professional Licensing

Dennis Gring  
Executive Director, Second Hand Precious Metal Objects Dealers  
and Pawnbrokers

Sloane Kinstler, Assistant Attorney General

MARYLAND DEPARTMENT OF  
LABOR, LICENSING AND  
REGULATION

v.

TARA LYNN CARBO,  
RESPONDENT

\* BEFORE EILEEN C. SWEENEY,  
\* AN ADMINISTRATIVE LAW JUDGE  
\* OF THE MARYLAND OFFICE  
\* OF ADMINISTRATIVE HEARINGS  
\*  
\* CASE NO.: DLR-PMG-64-14-27232  
\* COMPLAINT NO.: SPMG-15-0002  
\*

\* \* \* \* \*

**RECOMMENDED DECISION**

STATEMENT OF THE CASE  
ISSUES  
SUMMARY OF THE EVIDENCE  
FINDINGS OF FACT  
DISCUSSION  
CONCLUSIONS OF LAW  
RECOMMENDED ORDER

**STATEMENT OF THE CASE**

On July 29, 2014, the Maryland Department of Labor, Licensing and Regulation (DLLR) ordered Tara Lynn Carbo (Respondent) to appear for an administrative hearing to respond to charges that she violated various statutory provisions under the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers (SPMO) Act (Act). Md. Code Ann., Bus. Reg. §§ 12-101 through 12-601 (2010 & Supp. 2014). On October 8, 2014, the DLLR issued an Amended Statement of Charges and Order for Hearing (Statement of Charges).<sup>1</sup> The Statement of Charges advised the Respondent that the hearing could result in a reprimand, or a suspension or revocation of her SPMO dealer's license, and/or a civil penalty of up to \$5,000.00 per violation.

---

<sup>1</sup> The Respondent indicated at the hearing on the merits that she did not object to the amendment.

On November 21, 2014, I held the hearing at the Office of Administrative Hearings (OAH) in Hunt Valley, Maryland, pursuant to section 12-210 of the Business Regulation Article.<sup>2</sup> Assistant Attorney General Peter Martin represented the DLLR. The Respondent represented herself.

Procedure in this case is governed by the provisions of the Act, sections 12-101 to 12-601; the Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014); DLLR's hearing regulations, Code of Maryland Regulations (COMAR) 09.01.02 and 09.01.03; and OAH's Rules of Procedure, COMAR 28.02.01.

### ISSUES

1. Did the Respondent violate the SPMO Act by doing business as a dealer at a location that was not (a) at the address for which her SPMO dealer's license was issued; (b) an estate and judicial sale; or (c) the residence of the owner of a precious metal object or a place where the owner keeps a precious metal object?
2. If so, what sanction should be imposed?

### SUMMARY OF THE EVIDENCE

#### Exhibits

The Department submitted the following documents, which I admitted into evidence:

- DLLR Ex.1 August 19, 2014 Notice of Hearing; July 29, 2014 Statement of Charges and Order for Hearing; unclaimed certified mailing
- DLLR Ex. 2 August 21, 2014 letter from the OAH to the parties; unclaimed certified mailing
- DLLR Ex. 3 September 12, 2014 letter from Mr. Martin to the Respondent; certified mail receipt
- DLLR Ex. 4 October 9, 2014 letter from Mr. Martin to the Respondent; October 8, 2014 Amended Statement of Charges and Order for Hearing; unclaimed certified mailing

---

<sup>2</sup> All statutory references in this recommended decision are to the 2010 Volume and 2014 Supplement of the Business Regulation Article, unless otherwise specified.

DLLR Ex. 5 The following documents, collectively:

- July 8, 2014 SPMO Law Enforcement Complaint Referral Form
- September 19, 2013 Howard County Police Department (HCPD) Incident Report
- September 19, 2013 HCPD Additional Persons Sheet
- October 10, 2013 HCPD Narrative Report
- DLLR Results for Active Licensed Precious Metal Dealers: 2 printout, printed on September 17, 2013
- Undated SPMO Daily Transaction Report Form/Data Required for Electronic Filing relating to Gail Carpenter
- Undated SPMO Daily Transaction Report Form/Data Required for Electronic Filing relating to Jan Pappas
- August 31, 2011 Applicant's Affidavit
- December 4, 2013 Application for Statement of Charges
- January 27, 2014 Application for Statement of Charges
- December 4, 2013 Application for Statement of Charges
- Undated SPMO Daily Transaction Report Form/Data Required for Electronic Filing relating to Jan Pappas, with handwritten notation
- GoldPartyEvent invitation
- Undated PartyEvent Agent Form relating to Jan Pappas
- Copies of photographs
- Undated SPMO Daily Transaction Report Form/Data Required for Electronic Filing relating to Gail Carpenter, with handwritten notation
- Copy of photograph
- Undated PartyEvent Agent Form relating to Gail Carpenter
- GoldPartyEvent invitation
- September 12, 2013 written statements of Gail Carpenter and Jan Pappas
- Undated Howard Huskies & GoldPartyEvent invitation
- Copies of photographs

DLLR Ex. 6 Photographs

DLLR Ex. 7 Licensing information

DLLR Ex. 8 Online SPMO Original License form, printed on January 7, 2014

DLLR Ex. 9 June 10, 2013 Consent Order

The Respondent submitted the following documents, which I admitted into evidence:

Resp. Ex. 1 February 24, 2011 email from Dennis Gring to Denise Eakle and Tanya R. Minion; GoldPartyEvent Permission Slip form

Resp. Ex. 2 September 13, 2013 emails between Wendi Davis and Mick [Carbo] and the Respondent; September 13, 2013 email from Mick [Carbo] and the Respondent to Shane Powers

Resp. Ex. 3 September 12, 2013 email from the Respondent to Mick [Carbo] and herself; September 13, 2013 email from the Respondent to Shane Powers; September 16, 2013 email from Mick [Carbo] and the Respondent to the Respondent; September 16, 2013 email from the Respondent to Mick [Carbo] and herself

Resp. Ex. 4 March 4, 2014 SPMO Act Compliance Advisory

### Testimony

The Department presented the following witnesses:

- Sgt. Christopher Kandrac, HCPD, Southern District
- Detective First Class (DFC) Danielle Ramsdell, Property Crimes Residential Burglary Section, HCPD
- Dennis Gring, Executive Director , SPMO Program, DLLR
- Tanya Minion, Investigator, SPMO Program, DLLR

The Respondent testified; she presented no witnesses.

### FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. At all relevant times, the Respondent was a licensed SPMO<sup>3</sup> dealer trading as Gold Party Event, LLC.
2. At all relevant times, the Respondent had two SPMO dealer's licenses (Nos. 4192100 and 4173682). The addresses for which the Respondent's dealer's licenses were issued were 836 Ritchie Highway, Suite 23B, Severna Park, Maryland 21146 and 10015 Old Columbia Road, Suite B-215, Columbia, Maryland 21046, respectively.
3. At the time of her application(s) for licensure, the Respondent affirmed under penalty of perjury that she had read sections 12-101 through 12-601 of the Business Regulation Article of the Maryland Annotated Code, and COMAR 09.25.01.01-.05, she understood her

---

<sup>3</sup> Pursuant to section 12-101(i) of the Business Regulation Article "precious metal object" includes (1) a precious metal that is gold, iridium, palladium, platinum, or silver; (2) a precious or semiprecious stone, or a pearl, that is or appears to have been attached to or inlaid in a precious metal listed above or any alloy of a precious metal; or (3) an object that is composed of a precious metal listed above or any alloy of a precious metal if the market value of the metal in the object lies principally in its precious metal component, or at least 25% of the weight of the object is precious metal. Md. Code Ann., Bus. Reg. §12-101(i).



responsibilities under the law, and understood “that a license is issued for a specific location.”  
(DLLR Ex. 8.)

4. At all relevant times, Wendi Davis was the Respondent’s employee<sup>4</sup> and was on the DLLR Employee Roster Status List for the Respondent.

5. At times, the Respondent hosted events at which individuals were invited to have secondhand precious metal objects that he or she owns appraised by the Respondent or her employee which may result in the Respondent acquiring the object at a later time at her place of business (appraisal event). During an appraisal event, the procedure to be followed was that an item was appraised but not purchased at the location of the appraisal. It was later transported to the Respondent’s place of business for sale by an uncompensated individual appointed by the owner as his/her agent and the transaction and the paperwork were completed at the Respondent’s place of business. The agent then returned all funds received from the Respondent for the object to the owner.

6. The Respondent used a “GoldPartyEvent Permission Slip (agent form)” (Agent Form) with spaces for the date, customer/seller name, address, telephone number, email address, driver’s license information, and signature. The form provides:

I, [customer/seller] hereby give permission, authorize and appoint:

\_\_\_\_\_  
Agent Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
City, State, Zip

to act as my agent and sell my second hand precious metal object(s) to Gold Party Event, LLC.

<sup>4</sup> Section 12-101(c) of the Business Regulation Article defines “employee” as “an individual who is employed by a dealer or pawnbroker to buy, sell, or supervise directly the buying or selling of secondhand precious metal objects.” Md. Code Ann., Bus. Reg. § 12-101(c).

By signing below, the agent agrees: (a) to serve as the Seller's agent, (b) to be responsible for the safekeeping of the Seller's second hand precious metal object(s) for the time period in which the object(s) are in the Agent's possession, (c) to consummate the sale of the second hand precious metal object(s) to Gold Party Event, LLC on behalf of the Seller, (d) to return all funds received from Gold Party Event, LLC for the second hand precious metal objects(s) to the Seller in a timely manner, (e) to not receive a fee or compensation for the above reference [sic] duties. The agent acknowledges that he/she may incur civil and/or criminal liability for accepting a fee or compensation in consideration for the performance of these services.

\_\_\_\_\_  
Signature of Agent

(DLLR Ex. 5.)

7. On February 23, 2011, K. Denise Eakle, Administrative Tech II, Howard County Police Property Crimes/RAPID Unit, Southern District, emailed Tanya Minion, Investigator, SPMO Program, DLLR, and Dennis Gring, Executive Director, SPMO Program, DLLR, "requesting DLLR to review and authorize the . . . attached [GoldPartyEvent Permission Slip (agent form)] prior to given [sic] permission for this dealer to hold this type of transactions [sic] within Maryland." (Resp. Ex. 1.)

8. On February 24, 2011, Dennis Gring responded to Ms. Eakle's email as follows:

The new law [HB 318],<sup>5</sup> which was passed last year, prohibits "gold parties" at which a secondhand precious metal object transaction occurs. This law does not prohibit appraisals of precious metal objects at a "party", subsequent to which the licensee acquires the items at the licensee's place of business.

(Resp. Ex. 1.)

9. On September 12, 2013, the Respondent held a GoldPartyEvent (Event) at the Columbia Ice Rink located at 5876 Thunder Hill Road in Columbia, Maryland, as part of an effort to raise money for the Howard Huskies Youth Hockey Organization (Howard Huskies).

<sup>5</sup> See 2010 Md. Laws 2561 (Ch. 404).

10. A flyer for the Event provided in pertinent part as follows:

Bring your broken or unwanted Gold, Silver and Platinum jewelry,  
Coins, Diamonds and Silver Flatware  
and receive the highest guaranteed payout in CASH!  
FREE appraisals. No obligation.

You keep all your money. Hosts earn \$\$ for inviting their friends  
Howard Huskies gets 10-20% of the  
Profits – NO Donations & NO pledge cards  
We are here to help you get the best return for your items  
And that is why we . . .  
GUARANTEE the highest payout

Please Join The Howard Huskies  
Fundraising Campaign  
September 12<sup>th</sup> – November 12<sup>th</sup>  
Put your unwanted gold/silver/platinum items in bag and . . .  
Make extra CASH for the Holidays!

Please Contact  
Wendi our certified buyer at 410-707-3590 for event dates and more information

(DLLR Ex. 5.)

11. On the evening of the Event, Ms. Davis set up a table at the ice rink on which was placed, among other things, a scale, a working lamp, clipboards, and literature referring to Gold Party Events.

12. Subsequently, Gail Carpenter sat down at the table and handed a quantity of jewelry to Ms. Davis, who examined each piece as the two talked, and asked to see Ms. Carpenter's driver's license. Ms. Davis placed the jewelry in separate clear plastic bags, and then placed the bags to her right, behind the table, into a larger tote bag. During this process, she informed Ms. Carpenter that she was able to give her \$46.00.

13. Ms. Davis gave Ms. Carpenter a copy of a GoldPartyEvent invitation, on which Ms. Davis wrote "\$46."<sup>6</sup>

---

<sup>6</sup> An unexplained handwritten notation of "& \$10" was also written on the invitation. In addition, for unexplained reasons, the invitation gave the date of September 21, [no year] as "Your Gold Party Date." (DLLR Ex. 5.)

14. Ms. Carpenter signed an SPMO Program Daily Transaction Report Form/Data Required for Electronic Filing (Transaction Report) certifying that she was the true owner of the items identified. The box next to “Principal (Agent) representing owner (Seller) of the items” was left blank, as well as the spaces for the agent’s full name, address, and date of birth. In addition, the following information was left blank on the form: the transaction number, location of the transaction “(if transaction does not occur at business address);” date; time; whether an individual owner residence, estate, or judicial sale; seller’s middle name and race; whether the seller was known to the dealer; and quantity and description of items. (DLLR Ex. 5.) Above Ms. Carpenter’s signature was the statement, in bold, “**Do not sign this form until it is completely filled out.**” (DLLR Ex. 5.) The Transaction Report also did not contain the signature of the dealer/buyer.

15. No total was written on Ms. Carpenter’s Transaction Report and the boxes next to “cash” or “check” were not checked off. Handwritten on the back of the form were figures totaling \$46.00. (DLLR Ex. 5.)

16. Ms. Davis had Ms. Carpenter sign an undated Agent Form as the “Customer/Seller,” which contained no agent name or signature.

17. Subsequently, Janice Pappas handed a bag of jewelry to Ms. Davis for Ms. Davis to appraise. Ms. Davis examined the jewelry and asked to see Ms. Pappas’ driver’s license. As the three women talked, Ms. Davis placed the jewelry in separate clear plastic bags, then placed the bags into a larger clear plastic bag and then placed it in the same general area as Ms. Carpenter’s jewelry.

18. Ms. Davis gave Ms. Pappas a copy of a GoldPartyEvent invitation on which Ms. Davis wrote “\$405”<sup>7</sup> and she explained that because there were rules and regulations regarding

---

<sup>7</sup> An unexplained handwritten notation of “& \$40” was also written on the invitation. In addition, for unexplained reasons, the invitation gave the date of October 26, [no year] as “Your Gold Party Date.” (DLLR Ex. 5.)

doing such transactions in a public place, she would not be able to pay out that evening, but could meet with Ms. Pappas on Saturday at the ice rink where they would both be attending their sons' hockey game. (DLLR Ex. 5.)

19. Ms. Pappas signed a Transaction Report certifying that she was the true owner of the items identified. The box next to "Principal (Agent) representing owner (Seller) of the items" was left blank, as well as the spaces for the agent's full name, address, and date of birth. In addition, the following information was left blank on the form: the transaction number, the location of the transaction "(if transaction does not occur at business address);" date; time; whether an individual owner residence, estate, or judicial sale; seller's middle name, address, telephone number, distinguishing characteristics, driver's license number or other form of identification, and race; whether the seller was known to the dealer; and quantity and description of items. (DLLR Ex. 5.) Above Ms. Pappas' signature was the statement, in bold, "**Do not sign this form until it is completely filled out.**" (DLLR Ex. 5.) The Transaction Report also did not contain the signature of the dealer/buyer.

20. A total of \$405.00 was written on Ms. Pappas' Transaction Report under "Price Sold" and the box next to "cash" was checked off. Handwritten on the back of the form were figures totaling \$450.00. (DLLR Ex. 5.)

21. Ms. Davis had Ms. Pappas sign an undated Agent Form as the "Customer/Seller," which contained no agent name or signature.

22. Ms. Pappas and Ms. Carpenter were not paid any money at the Event. They and Ms. Davis agreed that they would be paid at a later date.

23. After their interaction with Ms. Davis, Ms. Carpenter and Ms. Pappas gathered their belongings and left the area as other individuals began to arrive. They were departing the ice rink when they were stopped by DFC Danielle Ramsdell, HCPD.

24. No agent was appointed to act on behalf of Ms. Carpenter and Ms. Pappas before they were stopped by DFC Ramsdell.

25. The ice rink was at a location that was not (a) at the address for which the Respondent's SPMO license was issued; (b) an estate and judicial sale; or (c) the residence of the owner of the secondhand precious metal objects or a place where the owners kept the precious metal objects.

### DISCUSSION

The DLLR alleged in the charging document that the Respondent is subject to section 12-209 of the Business Regulation Article, which provides in pertinent part as follows:

(2) Subject to the hearing provisions of § 12-210 of this subtitle, the Secretary may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee or an agent, employee, manager, or partner of the applicant or licensee:

...

(viii) violates this title[.]

...

(3)(i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Secretary may impose a penalty not exceeding \$5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Secretary shall consider:

1. the seriousness of the violation;
2. the harm caused by the violation;
3. the good faith of the licensee; and
4. any history of previous violations by the licensee.

Md. Code Ann., Bus. Reg. § 12-209(2)(viii), (3).

The DLLR contended that the Respondent violated section 12-206 of Title 12, which provides as follows:

(a) A license authorizes the licensee to do business as a dealer only at the address for which the license is issued.

- (b) Notwithstanding subsection (a) of this section, a dealer who holds a license under this subtitle may:
- (1) make purchases at an estate and judicial sale; and
  - (2) transact business at the residence of the owner of a precious metal object or a place where the owner keeps a precious metal object:
    - (i) on request of the owner; and
    - (ii) after giving written notice of the proposed transaction and its location to the local law enforcement unit with jurisdiction over that location.

Md. Code Ann., Bus. Reg. §12-206.

In essence, the DLLR contended that the Respondent violated section 12-206 on September 12, 2013 when she transacted business at an ice rink located at 5876 Thunder Hill Road in Columbia, Maryland. The DLLR alleged that one of the Respondent's employees, Wendi Davis, while acting on the Respondent's behalf, acquired SPMOs from at least two sellers/owners of those objects; the ice rink was not the address for which the Respondent's dealer's licenses were issued;<sup>8</sup> the ice rink was not the residence of the sellers/owners of the objects; the ice rink was not the place where the sellers/owners kept the objects; and the transactions were not an estate and judicial sale. Thus, according to the DLLR, the Respondent impermissibly transacted business at the aforementioned location when she knew, or should have known, of the statutory requirements regarding permissible locations at which SPMO transactions may take place.

---

<sup>8</sup> Section 12-101(d) provides:

- (d) "Fixed business address" means a single physical location in Maryland where a licensee regularly conducts business and at which the licensee or an employee of the licensee is physically present:
- (1) during normal business hours; or
  - (2) other hours as provided in the application for the license which are sufficient to provide an authorized law enforcement officer or agent access to the licensee's place of business as provided in § 12-306 of this title.

Md. Code Ann., Bus. Reg. §12-101(d).

The Respondent contended that she did not violate the aforementioned section of the Act. She contended that under Title 12 she is allowed to conduct appraisal events, using owners' agents, and that is what took place at the ice rink on September 12, 2013.

Because the DLLR is asserting that the Respondent committed the alleged violations, it bears the burden of proof. *See Schaffer v. Weast*, 546 U. S. 49, 56 (2005). It must prove its allegations by a preponderance of the evidence. Md. Code Ann., State Gov't § 10-217 (2014).

For the following reasons, I find that the DLLR met its burden.

### **DLLR's Case**

Employees of DLLR's SPMO Program work in conjunction with local law enforcement agencies to regulate and monitor the purchase, sale, and pawn of SPMOs. Sgt. Christopher Kandrac, HCPD, Southern District, testified that in September 2013, he was the corporal supervising the HCPD Precious Metal Unit. His duties included overseeing SPMO dealers to ensure compliance with Title 12.

In his HCPD Incident Report and at the hearing, Sgt. Kandrac reported that on September 11, 2013, he learned of a "gold and silver exchange for cash" event being held at the Columbia Ice Rink the next evening from 6:00 p.m. to 9:00 p.m. Upon entering the ice rink with DFC Ramsdell on September 12, 2013, he observed a female who was later identified as Wendi Davis, seated at a folding table on which had been placed a scale, a working lamp, clipboards, and literature referring to Gold Party Events, as well as a poster on a nearby bench advertising the Event.

Sgt. Kandrac testified that he and DFC Ramsdell sat down approximately fifteen feet from the table, sometimes closer when a customer came. They observed a woman later identified as Gail Carpenter approach the table and converse with Ms. Davis. According to Sgt. Kandrac, the women appeared to be familiar with each other through the youth hockey league.



He observed Ms. Carpenter provide a quantity of jewelry to Ms. Davis, heard Ms. Davis ask for her license, and observed her have Ms. Carpenter sign a form. He observed Ms. Davis put the jewelry in plastic bags and then place the bags in a tote bag behind the table. He also heard Ms. Davis say that she could give Ms. Carpenter \$46.00 for the jewelry. He acknowledged that he could not hear everything that was said because of noise in the background.

Sgt. Kandrak testified that he then observed a woman later identified as Janice Pappas approach the table and testified that it appeared all three women knew each other from the league. He observed Ms. Davis examine a bag of jewelry given to her by Ms. Pappas, select certain pieces, place the pieces in plastic bags, and put the bags in the tote bag. He also heard Ms. Davis ask for a driver's license, and observed Ms. Pappas sign a document. Ms. Carpenter and Ms. Pappas then gathered their belongings and "appeared to be leaving." He observed two other families bring items to Ms. Davis as well.

Sgt. Kandrak testified that he proceeded to identify himself to Ms. Davis and to indicate that he had some questions about her business practices. Ms. Davis told him that she had worked for Gold Party Events, owned and operated by the Respondent, for four months. Sgt. Kandrak examined the jewelry in the bags, as well as documents which included partially completed Agent Forms and partially completed Transaction Reports. He also later obtained from Ms. Carpenter and Ms. Pappas copies of GoldPartyEvent invitations given to them by Ms. Davis, which he described as "like a receipt" showing the amounts of \$46.00 and \$405.00, respectively. When he told Ms. Davis that she could not do appraisals or accept gold away from the Respondent's business location, she stated that she was only holding the gold for others. She stated that she knew the law, he was being rude, and she was going to call the Respondent.

Sgt. Kandrak testified that the Respondent told him over the telephone that she was going to come to the rink to take care of the situation and arrived shortly thereafter. When the

Respondent arrived, he told her that, as he had told her the year before with regard to another event at a local school, she needed to get authorization from the local police department to conduct off-site transactions.

DFC Ramsdell, Property Crimes Residential Burglary Section, HCPD, testified that she observed Ms. Carpenter and Ms. Pappas interact with Ms. Davis at the table and that when they got up to leave, she followed them to the exit vestibule and stopped them. She explained to them that she stopped them because they had given Ms. Davis jewelry. DFC Ramsdell testified that the women told her and indicated in written statements that they had sold the jewelry, had not yet been paid, were leaving, and were going to be paid at a hockey game the following Saturday.

Dennis Gring, Executive Director, SPMO Program, DLLR, testified that he is responsible for overseeing the DLLR's SPMO Program and explained the application process. He testified that the licensing information for the Respondent showed that on September 12, 2013, the Respondent held two SPMO dealer's licenses. The DLLR submitted into evidence licensing information showing two business locations: 836 Ritchie Highway, Suite 23B, Severna Park, Maryland 21146 and 10015 Old Columbia Road, Suite B-215, Columbia, Maryland 21046.

Tanya Minion, Investigator, SPMO Program, DLLR, simply explained her role as an investigator and notations she made on the SPMO Program Law Enforcement Complaint Referral Form indicating that the Respondent would indicate that the Event was an "appraisal event." (DLLR Ex. 5.)

### **Respondent's Case**

The Respondent testified that her business holds two types of "events:" (1) events at her "space" or (2) appraisal parties at a location off-site. The latter typically involves church members or sports parents and an agent who is appointed to represent each person who brings in objects to be appraised. The agent is a volunteer and does not get paid. The owner signs a form

appointing that person as an agent; the objects are sealed in a tamper-proof plastic bag, and turned over to that agent who at a later time takes them to the Respondent's place of business. At that time forms are filled out and the agent is given money for the objects, which he/she subsequently gives to the owner.

The Respondent testified that the plan on September 12, 2013 was for the manager of the ice rink to act as the agent; however, he/she got sick.<sup>9</sup> The Respondent testified that another volunteer agent had to be found and that it was never Ms. Davis' intention to leave the rink with Ms. Carpenter's and Ms. Pappas' jewelry or to handle any money.

The Respondent submitted into evidence a September 13, 2013 email from Wendi Davis forwarding an email from Ms. Pappas indicating, among other things, that after Ms. Davis finished her appraisal, she gave Ms. Pappas "an appraisal receipt in the amount of \$450.00 and explained that because there were rules and regulations regarding doing these transactions in a public place . . . she would not be able to pay out that evening, but we could meet on Saturday." (Resp. Ex. 2.) Ms. Pappas further stated in the email that she was approached by a police officer as she "walked up the stairs to depart the rink" and that the officer stopped Ms. Carpenter as well as she "came up to leave." (Resp. Ex. 2.) The officer asked them both to write a brief note on what transpired. According to Ms. Pappas' email, DFC Ramsdell asked Ms. Carpenter and her whether they expected to leave their items with Ms. Davis or to take them with them. Ms. Pappas told her that she had never done this before and did not know what to expect; she further indicated that Ms. Davis may well have intended to give her jewelry back to her but did not have a chance to do so because she had walked away.

The Respondent contended that Mr. Gring approved the Agent Form that she uses at appraisal events, and regardless, such a form is not necessary. She submitted into evidence a

---

<sup>9</sup> It is interesting to note that in a September 12, 2013 email, the Respondent stated that at one point, Sgt. Kandrac had a closed door meeting with the ice rink manager.

February 23, 2011 email from Denise Eakle, Administrative Tech II, Howard County Police Property Crimes/RAPID Unit, Southern District, to Mr. Gring inquiring about the Respondent's Agent Form and stating, "we are requesting DLLR to review and authorize the [Agent Form] prior to given [sic] permission for this dealer to hold this type of transactions within Maryland." (Resp. Ex. 1.) Mr. Gring responded that HB 318 "prohibits 'gold parties' at which a secondhand precious metal object transaction occurs. This law does not prohibit appraisals of precious metal objects at a 'party', subsequent to which the licensee acquires the items at the licensee's place of business." (Resp. Ex. 1.)

In addition, the Respondent submitted into evidence a March 4, 2014 SPMO Act Compliance Advisory issued by the Division of Occupational and Professional Licensing SPMO Dealer and Pawnbrokers, DLLR (after the Event in question), which provides that "[u]nder very limited conditions, an event may be hosted at which individuals are invited to have a secondhand precious metal object that he or she owns appraised by a licensed dealer which may result in the dealer acquiring the object at a later time at the dealer's place of business. An item **cannot be purchased** at the location of the appraisal. However, if it is later transported to the dealer's place of business by the host or an agent of the owner of the object, the transaction may be completed at the dealer's place of business. . . ." (Resp. Ex. 4) (emphasis in original).

The Respondent acknowledged that she had been in contact with Sgt. Kandrak sometime during the prior year and that he told her that she could not perform transactions outside of her business location, but she contended that her appraisal events did not constitute transactions because the Respondent did not take possession of the jewelry or pay money off-site.

The Respondent agreed that Ms. Davis should not have filled in the Transaction Reports as she did and testified that Ms. Davis has since received further training in that regard. She further testified that she would have preferred that the Event be "tighter." When asked on cross-

examination what she meant by that, she explained that she would have begun the Event by addressing the crowd, and explaining the procedure and that they could take their items back if they chose or assign them to an agent.

The Respondent admitted on cross-examination that a total of \$405.00 was written on Ms. Pappas' Transaction Report under "Price Sold," but still contended that the object had not been sold and that this was just the appraisal value.

The Respondent complained that Sgt. Kandrac immediately assumed she was guilty and caused a scene at the ice rink and that DFC Ramsdell accused Ms. Carpenter and Ms. Pappas of lying.

### Analysis

#### Violations

Sgt. Kandrac and DFC Ramsdell presented as professional and matter-of-fact. I do not doubt their accounts as to what they observed at the Event. The evidence corroborates the Respondent's assertion, however, that the Event was meant to be an appraisal event, following a procedure for which she had obtained prior approval.

Resp. Ex. 2 includes a September 12, 2013 email from Ms. Davis to Ms. Pappas indicating that Ms. Pappas "never had to take [her] gold with [her] since [Ms. Davis] was doing it the agent way." (Resp. Ex. 1.) Furthermore, the DLLR presented no evidence to rebut the Respondent's testimony that the pre-arranged agent for the Event fell through. It was disingenuous for Ms. Davis to have Ms. Carpenter and Ms. Pappas sign Agent Forms when, at that point, there was no agent; however, those forms do show an intent to conduct business through an agent.

My review of the applicable regulations revealed no prohibition against an appraisal event, when done properly. Nor does there does not appear to be a prohibition in the statute or

regulations against the appraiser obtaining and recording personal information at the time of the appraisal.

On cross-examination, Mr. Gring denied that he gave permission for the use of agents at appraisal events via an email to Denise Eakle. He testified that it is not DLLR's role to opine on such an issue; rather, he simply conveyed information to Ms. Eakle. I find, however, that the wording of Mr. Gring's response to Ms. Eakle's email indicates that at least Mr. Gring found that procedure acceptable as early as February 23, 2011 and that his approval was conveyed to the Respondent.<sup>10</sup> (Indeed, since that time, the DLLR has indicated in a March 4, 2014 SPMO Act Compliance Advisory, that it interprets applicable laws and regulations as allowing such appraisal events, if proper procedure is followed.).

Nonetheless, for whatever reason, any plans to conduct the Event on September 12, 2013 in the aforementioned manner were foiled and Ms. Davis failed to properly abort or adapt that process to comply with law.

Section 12-101(b)(2) of the Business Regulation Article provides that “[d]ealer’ includes a retail jeweler as to transactions in which the retail jeweler **acquires** commercially from the public or trades commercially with the public in secondhand precious metal objects.” Md. Code Ann., Bus. Reg. §12-101(b)(2) (emphasis supplied). Ms. Davis clearly did not instruct Ms. Carpenter and Ms. Pappas to take their jewelry with them when they left. Furthermore, a preponderance of the evidence, including Ms. Carpenter's and Ms. Pappas' own statements, established that they were departing without their jewelry when they were stopped by the officer and before an agent had been found. Thus, the evidence shows that the Respondent's employee

---

<sup>10</sup> Mr. Gring's response confusingly refers to “Ms. Bergersen's statement that [he] gave permission for her to conduct ‘appraisal events’” and to the acceptability of a “form provided by 24K National for the use of a seller to designate an agent.” Nonetheless, the DLLR did not dispute that the Agent Form attached to Ms. Eakle's email was the Respondent's form.

acquired or took possession of second hand precious metal objects at the Event, with a promise that the sellers/owners would be paid the next week for those objects.

It was undisputed that the ice rink was at a location that was not (a) at the address for which the Respondent's SPMO dealer's license was issued; (b) an estate and judicial sale; or (c) the residence of the owner of the secondhand precious metal objects or a place where the owners kept the precious metal objects.

Accordingly, I find that the Respondent violated Section 12-206 of Title 12 by doing business as a dealer at an address for which the license was not issued. Specifically, the Respondent transacted business at the ice rink when one of her employees, while acting on her behalf, acquired second hand precious metal objects from at least two sellers/owners of those objects.<sup>11</sup>

#### Sanction

Based on the Respondent's violation of Section 12-206, I find that she is subject to the sanctions set forth in Section 12-209 of the Business Regulation Article, including suspension and/or a monetary penalty. Md. Code Ann., Bus. Reg. § 12-209(2)(viii), (3).

The DLLR recommends a sixty day suspension of the Respondent's license and the imposition of a \$5,000.00 civil penalty. For the following reasons, I recommend the imposition of a thirty day suspension and a \$2,500.00 civil penalty.

The Event was clearly run in a haphazard manner and the Respondent was responsible for ensuring that it complied with applicable law. Nonetheless, a preponderance of the evidence indicates that the violation was not serious and did not cause substantial harm. The evidence also showed that only two customers were involved, one who gave Ms. Davis jewelry valued at

---

<sup>11</sup> I note that although the Transaction Reports may have been improperly completed, the DLLR did not base its charges on a violation of the sections of the Act governing those records.

\$46.00 and the other at \$405.00. Those customers were told that they would be paid for that jewelry the following week and I have no reason to believe that would not have occurred. In addition, bad faith was not shown as the Respondent's original intention was to conduct an appraisal event with a seller's agent acting as a go-between, a process which was not proven to be illegal. With regard to any alleged history of previous violations, Sgt. Kandrak vaguely referred to conversations he had with the Respondent at a prior event; however, I was not presented with evidence that the Respondent's conduct with regard to that event resulted in charges. The DLLR did present a June 28, 2013 Consent Order relating to violations of the record keeping and holding period requirements of the Act under which the Respondent received a reprimand and a \$1,500.00 civil penalty.

Thus, after considering the evidence, including the factors set forth in Section 12-209(3), I believe a thirty-day suspension and \$2,500.00 monetary penalty is appropriate and that such a sanction will encourage the Respondent to pay closer attention to the details of transactions occurring in the future under the auspices of her license.

#### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the Respondent violated the Act by doing business as a dealer at a location that was not (a) at the address for which her SPMO license was issued; (b) an estate and judicial sale; or (c) the residence of the owner of a precious metal object or a place where the owner keeps a precious metal object. Md. Code Ann., Bus. Reg. §§ 12-206, 12-209(2)(viii). I further conclude as a matter of law that the Respondent's license should be suspended for thirty days and that a monetary penalty in the amount of \$2,500.00 should be imposed. Md. Code Ann., Bus. Reg. § 12-209(2)(viii), (3).



**RECOMMENDED ORDER**

Based upon the foregoing Findings of Fact, Discussion, and Conclusions of Law, I **RECOMMEND** that the Board of Secondhand Precious Metal Object Dealers and Pawnbrokers **ORDER** as follows:

1. The Respondent has violated section 12-206 of the Business Regulation Article of the Maryland Annotated Code;
2. The Respondent's license to act as Secondhand Precious Metal Object Dealer be **SUSPENDED** for a period of thirty days;
3. The Respondent shall pay a monetary penalty in the amount of \$2,500.00; and
4. The records and publications of the Maryland Department of Labor Licensing and Regulation, Board of Secondhand Precious Metal Object Dealers and Pawnbrokers reflect this decision.

December 22, 2014  
Date decision mailed

ADMINISTRATIVE LAW JUDGE  
SIGNATURE  
ON ORIGINAL DOCUMENT  
**Eileen C. Sweeney**

ECS/emh  
#153154