

[2014] NZSHD 1
SHD Number: 765794

IN THE MATTER

of the Secondhand Dealers and
Pawnbrokers Act 2004

AND

IN THE MATTER

of Individual Licence No. 765794
held by **MOHAMMAD HASHEM
BASIRI** of Auckland.

**BEFORE THE LICENSING AUTHORITY OF
SECONDHAND DEALERS AND PAWNBROKERS**

DECISION

Background

[1] Mr MOHAMMAD HASHEM BASIRI of Auckland holds individual licence number 765794 under the Secondhand Dealers and Pawnbrokers Act 2004 (“the Act”).

[2] Waitemata Police, by letter dated 24 January 2014, have advised the Licensing Authority of Secondhand Dealers & Pawnbrokers (“the Authority”) that Mr BASIRI has recently been convicted of the crime of Receiving in relation to his auto parts business. Accordingly they ask the Authority to revoke Mr BASIRI’s licence.

[3] The Police letter is accompanied by a printout of 6 convictions for Receiving in the name of MOHAMMAD HASHEM BASIRI entered against him by a Judge in the Auckland District Court on 10 December 2013.

Statutory provisions

[4] Section 16(1)(a) of the Act provides that the Authority *must* cancel a licence held by an individual if the licence holder ceases to be eligible to hold a certificate.

[5] Section 28(1)(a) of the Act provides that a person is eligible to hold a certificate if the person is not disqualified under s.22 of the Act from holding a certificate or, if disqualified, the disqualification has been waived under s.23.

[6] Section 22(a) of the Act provides that a person is disqualified from holding a certificate if that person has been convicted of a “*specified offence*” within the past five years.

[7] A “*specified offence*” is defined in s.4 of the Act as an offence under sections 217 to 265 of the Crimes Act 1961 (which relate to crimes against rights of property), or an offence under the Fair Trading Act 1986.

[8] Section 23 of the Act gives the Authority discretion to waive disqualification resulting from any of the events of disqualification under s.22, except for a disqualification resulting from a conviction for a “*specified offence*”.

Discussion

[9] The Authority is satisfied that the list of convictions supplied by the Police, namely 6 convictions for Receiving under the Crimes Act 1961, relate to Mr BASIRI. The full name, date of birth and Driver’s Licence details are identical with details held by the Authority.

[10] By virtue of being convicted of the offences of Receiving under the Crimes Act 1961 Mr BASIRI is disqualified from holding a certificate pursuant to s.22(a) of the Act.

[11] Mr BASIRI is in the position where the Authority has no power to waive his disqualification because he has been convicted of “*specified offences*”, namely the dishonesty offences of Receiving under s.246 of the Crimes Act 1961.

[12] Mr BASIRI is no longer eligible to hold a certificate under s.28 of the Act.

[13] Mr BASIRI’s licence must therefore be cancelled under s.16(1)(a) of the Act.

Decision

[14] The individual licence held by Mr BASIRI is cancelled with effect from the date of this decision.

[15] The attention of Mr BASIRI is drawn to the provisions of s.16(5) of the Act which provide for a fine on conviction if a licence holder fails without reasonable excuse to return a cancelled licence, and every certified copy of it, to the Authority immediately on cancellation of the licence.

DATED at AUCKLAND this 6th day of February 2014

S L Cole
Authority of Secondhand Dealers and Pawnbrokers