

[2017] NZSHD 3
SHD Number 17-042497

IN THE MATTER

of the Secondhand Dealers and
Pawnbrokers Act 2004

AND

IN THE MATTER

opposition to the granting of a
certificate to **SCOTT REID**

BEFORE THE LICENSING AUTHORITY OF
SECONDHAND DEALERS AND PAWNBROKERS

HEARING by telephone on 9 August 2017

DECISION

[1] Mr Reid has applied for a certificate under s 21 of the Secondhand Dealers and Pawnbrokers Act 2004 (the Act) as he works for a used car parts business and his role requires him to have a certificate.

[2] The Police oppose granting Mr Reid a certificate. They do not consider Mr Reid is a suitable person to hold a certificate as in 2014 he was convicted of a series of drug offences and also of participating in an organised criminal group. Mr Reid was sentenced to twelve months home detention and 200 hours' community work.

[3] Mr Reid accepts the seriousness of his past convictions. However the offending for which he was convicted was over five years ago and since his conviction he has remained drug and alcohol free. He has also not associated with the others involved in the offending since his arrest.

[4] With every objection filed by the Police the question for the Authority is whether the applicant is a fit and proper person to hold a certificate.¹ Therefore the key issue for me to decide is whether there is sufficient evidence to establish that Mr Reid is not a fit and proper person to hold a certificate?

[5] In making this decision the purpose of the Act as set out in s 3 of the Act must be my primary consideration. The Authority has generally taken the view that an example of a fit and proper person under the Act is someone who can be trusted to comply with his or her obligations as a secondhand dealer and pawnbroker under Part 3 of the Act, and who is aware of the need to be vigilant and to use his best endeavours to ensure stolen goods do not pass through their business. On the other hand a person who encourages the transit of stolen property through their premises or who turns a blind eye when stolen property is offered to them is clearly not a fit and proper person.

¹ Secondhand Dealers and Pawnbrokers Act 2004, ss25–29.

[6] Section 22(a) of the Act states that a person is disqualified from holding a certificate if he has been convicted of a specified offence within the last five years. Specified offence is defined in s 4 of the Act and includes any offence under ss 217 to 265 of the Crimes Act 1961. Mr Reid's convictions do not fit within the definition of a specified offence under the Act.

[7] Mr Reid has made considerable progress in putting his offending behind him. Even prior to sentencing he worked at becoming drug and alcohol free. In addition Mr Reid has worked for his current employer for almost two and a half years and has been promoted to a position of responsibility within the company as the Sales and Purchasing Manager. Without a certificate he is unlikely to be able to keep his job.

[8] Based on the evidence presented I am satisfied that Mr Reid has put his offending and drug use behind him. I am also satisfied that he can be trusted to comply with his obligations as a secondhand dealer under Part 3 of the Act.

Conclusion

[9] I conclude that the Police have failed to establish that Mr Reid is not a fit and proper person to hold a certificate. The Police opposition to Mr Reid's certificate is therefore dismissed and his certificate is granted.

DATED at Auckland this 9th day of August 2017

P A McConnell
Licensing Authority of Secondhand Dealers and Pawnbrokers