

[2016] NZSHD 4

SHD Number 16-030676

**IN THE MATTER**

of the Secondhand Dealers and  
Pawnbrokers Act 2004

**AND**

**IN THE MATTER**

opposition to the granting of a  
renewal of a license filed by  
XXXXXXXXXX

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

**HEARING** on the papers

**DECISION**

[1] Mr XXX has applied for an individual licence under s 8 of the Secondhand Dealers and Pawnbrokers Act 2004 (the Act). The Police oppose granting Mr XXX licence as he has recent convictions for breach of protection orders and assault.

[2] Mr XXX originally sought a hearing of his application which was scheduled in Dunedin for Thursday the 14<sup>th</sup> July 2014. However two days before the hearing Mr XXX rang the Authority's case manager and advised he was not going to attend the hearing or file any further documentation and intimated that he did not want to continue with his application as he considered it a waste of time. He was asked to confirm in writing that he wished to withdraw his application. He has not done so and accordingly it is appropriate for me to issue a decision on his application.

[3] 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 licence.<sup>1</sup> Therefore the key issue for me to decide is whether there is sufficient evidence to establish that Mr XXX is not a fit and proper person to be granted a license?

[4] 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. In particular it requires the applicant to be 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 had 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.

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<sup>1</sup> Secondhand Dealers and Pawnbrokers Act 2004, ss25–29.

[5] The Police advise that in January 2016 XXX was convicted of breach of a protection order and common assault and was sentenced to nine months supervision and community work. He also had two convictions for breaches of protection orders in 2015 as well as more historic convictions for threatening to kill, possession of offensive weapon, and intimidation. As a result the Police submit that Mr XXX is not a fit and proper person to hold a licence as he demonstrates a “propensity towards threats, violence and disregard of rules”.

[8] It is conceivable that there could be an explanation for the offending that does not bring into question Mr XXX suitability to hold an individual licence. However Mr XXX has not provided any such explanation nor made any other submissions to counter the Police’s opposition.

[9] As Mr XXX has filed no contrary evidence or submissions I am satisfied that the Police have established that Mr XXX is not a fit and proper person to hold a licence under the Act. In particular I am not satisfied that Mr XXX cannot be trusted to comply with his obligations as a secondhand dealer under Part 3 of the Act.

### **Conclusion**

[10] I conclude that the Police have established that Mr XXX is not a fit and proper person to hold a certificate. His application for an individual licence is therefore dismissed.

**DATED** at Auckland this 28<sup>th</sup> day of July 2016

P A McConnell  
Licensing Authority of Secondhand Dealers and Pawnbrokers