

[2014] NZSHD 8

LASDP Number: 14 / 013947

LASDP Number: 14 / 013945

IN THE MATTER

of the Secondhand Dealers and
Pawnbrokers Act 2004

AND

IN THE MATTER

of an application for a Certificate
of Approval by **SABA KHALIFEH**
of Auckland

AND

IN THE MATTER

of an application for a Company
Licence by **MANUKAU SCRAP
METAL AND CARS LIMITED** of
Auckland

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

DECISION

Introduction

[1] On 23 May 2014 Mr Saba Khalifeh (“the applicant”) of Auckland applied to the Licensing Authority of Secondhand Dealers and Pawnbrokers (“the Authority”) for a certificate of approval (“certificate”) to be issued to him under the Secondhand Dealers and Pawnbrokers Act 2004 (“the Act”).

[2] The applicant is also the sole director of Manukau Scrap Metal and Cars Limited (“the Company”). On 28 April 2014 the Company had also applied for a company licence under the Act.

Statutory provisions

[3] Section 19 of the Act requires that every person who, with the authority of a licensed secondhand dealer, enters into a transaction on behalf of the dealer or, with the authority of a licensed pawnbroker, issues a pledge ticket on behalf of the pawnbroker, and every person who manages, controls or supervises such a person, must hold a certificate. A certificate is defined in s.4 of the Act as a certificate of approval issued under s.28

[4] When a company applies for a licence under the Act, section 10 of the Act requires that every person concerned in the management of the company must hold or 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 from holding a certificate, or if disqualified, the disqualification has been waived by the Authority under s.23 of the Act.

[6] Section 22(a) to (h) of the Act sets out the various grounds upon which a person is deemed to be disqualified from holding a certificate under the Act.

[7] Under s.22(a) of the Act in particular a person is disqualified from holding a certificate if that person has been convicted of a '*specified offence*' within the past five years.

[8] 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.

[9] Section 23 of the Act gives the Authority discretion to waive a disqualification from holding a certificate resulting from 1 or more of the grounds for disqualification as set out in s.22(b) to (h) of the Act, but not for a disqualification resulting from a conviction for a '*specified offence*' under s.22(a).

Discussion

[10] The Authority has completed checks on the two applications pursuant to ss.10(4), 21(3) and 24 of the Act.

[11] These checks reveal that Saba Khalifeh was convicted of two '*specified offences*' within the past five years, namely two convictions under s.228 of the Crimes Act 1961 on 11 December 2013.

[12] The Authority is satisfied that the applicant Saba Khalifeh is the same Saba Khalifeh who was convicted of the two charges under s.228 of the Crimes Act 1961 on 11 December 2013. The full name, one of the aliases, the date of birth and the driver licence number of the convicted person are identical with details supplied by the applicant in the two applications.

[13] By virtue of being convicted of the two '*specified offences*' the applicant is disqualified from holding a certificate for a period of five years pursuant to s.22(a) of the Act.

[14] Because the disqualification results from '*specified offences*' the Authority has no power to waive the disqualification under s.23 of the Act.

[15] The applicant is therefore ineligible to hold a certificate under s.28 of the Act and his application for a certificate must therefore be refused.

[16] As the applicant is the sole director of the Company and as he is personally ineligible to hold a certificate it follows that the application by the Company must also fail under s.10(1)(b) of the Act.

Decision

[17] The application by Mr Saba Khalifeh for a certificate is REFUSED.

[18] The application by Manukau Scrap Metal and Cars Limited for a company licence is also REFUSED.

DATED at AUCKLAND this 28th day of May 2014

S L Cole
Authority of Secondhand Dealers and Pawnbrokers