

IN THE MATTER

of the Secondhand Dealers and
Pawnbrokers Act 2004

AND

IN THE MATTER

of Certificate of Approval number
760745 held by **JI XIANG LI** of
Auckland.

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

DECISION

Background

[1] Mr JI XIANG LI of Auckland holds a certificate of approval (“certificate”) number 760745 under the Secondhand Dealers and Pawnbrokers Act 2004 (“the Act”).

[2] The certificate was issued by the Licensing Authority of Secondhand Dealers and Pawnbrokers (“the Authority”) on 15 December 2009 and is due to expire on 15 December 2014.

[3] Mr Li has applied to the Authority for the renewal of his certificate for a further five years as from 15 December 2014.

[4] The Authority has accordingly completed a check on Mr Li as authorised by the Act.

[5] This check reveals that Mr Li was convicted on 21 July 2014 in the Waitakere District Court on a number of criminal charges including two charges of Receiving Stolen Property (“Receiving”) which are “*specified offences*” as defined in the Act, and which mean that not only is Mr Li’s certificate not able to be renewed but in fact it must now be cancelled.

[6] The Authority notes that for some reason the Police did not notify the Authority of Mr Li’s convictions for “*specified offences*” at the time, and it is only as a result of Mr Li’s application for renewal that cancellation of his certificate must and will now take effect.

Statutory provisions

[7] 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

[8] 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.

[9] 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.

[10] 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.

[11] 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*".

[12] Section 31 of the Act gives the Authority the power to cancel or suspend a certificate in circumstances where the certificate holder is disqualified from holding a certificate under the Act.

[13] Sections 21(3) and 24 of the Act allow the Authority to make inquiries about an applicant and also to obtain a report on any relevant convictions including those for "*specified offences*".

Discussion

[14] The Authority is satisfied that the list of convictions recorded against Mr JI XIANG LI and which have been revealed pursuant to the check under the Act relate to the same Mr JI XIANG LI who has applied for the renewal of his certificate number 760745. The full name, date of birth and driver's licence details are identical on Mr Li's application form and on the list of criminal convictions.

[15] The Authority notes in particular that two of the convictions recorded against Mr Li on 21 July 2014 are for the offence of Receiving pursuant to s.246 and s.247 of the Crimes Act 1961.

[16] By virtue of being convicted of the offences of Receiving under the Crimes Act 1961 within the past five years Mr Li is disqualified from holding a certificate pursuant to s.22(a) of the Act.

[17] Because this disqualification results from convictions for "*specified offences*" the Authority has no power to waive the disqualification under s.23 of the Act.

[18] Mr Li is therefore no longer eligible to hold a certificate under s.28 of the Act.

Decision

[19] The application by Mr Li for the renewal of his certificate is Refused because he is now ineligible to hold a certificate under s.28 of the Act.

[20] Mr Li's certificate must also be and is hereby Cancelled pursuant to s.31(1)(b) of the Act because he is disqualified from holding a certificate and is not eligible for a waiver.

[21] The cancellation is to take effect as from 16 November 2014.

[22] The attention of Mr Li is drawn to the provisions of s.31(4) of the Act which provide for a fine on conviction if a certificate holder fails without reasonable excuse to return a cancelled certificate to the Authority immediately on cancellation of the certificate.

DATED at AUCKLAND this 12th day of November 2014

S L Cole
Authority of Secondhand Dealers and Pawnbrokers