

[2016] NZSHD 5
SHD Number 16-033964

IN THE MATTER

of the Secondhand Dealers and
Pawnbrokers Act 2004

AND

IN THE MATTER

of an application by **LISIATE**
RICHARD HALA for a certificate
pursuant to s 21 of the Act.

BEFORE THE LICENSING AUTHORITY OF
SECONDHAND DEALERS AND PAWNBROKERS

HEARING: 9 November 2016 (By Telephone)

DECISION

[1] Mr Hala is employed as a sales assistance by a licensed secondhand dealer and pawnbroker. Mr Hala's employer wants to increase his duties to include lending and pawnbroking. Therefore Mr Hala has applied for a certificate under s 21 of the Secondhand Dealers and Pawnbrokers Act 2004 (the Act).

[2] The Police oppose granting Mr Hala a certificate due to his previous convictions. In particular they note that Mr Hala was convicted of assault with intent to injure in June 2014 and sentenced to four months community detention. Mr Hala also has some more historical convictions.

[3] Mr Hala does not dispute the previous convictions nor the seriousness of his most recent conviction. Mr Hala's manager, who spoke on his behalf, considers Mr Hala has changed since his convictions and said he has seen no indication of the character traits that resulted in Mr Hala's offending. He also notes that Mr Hala will be working under close supervision.

[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

[5] In making this decision my primary consideration must be the purpose of the Act as set out in s 3 of the Act. 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. A fit and proper person is someone 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] Mr Hala's manager advised that there are usually six other staff on the premises where Mr Hala works. He also said that for the first six to eight months after obtaining a certificate all transactions completed by Mr Hala would be closely supervised. In addition the type of transactions Mr Hala could carry out would be restricted. He considered it would be impossible for Mr Hala to turn a blind eye to any questionable transactions.

[7] Based on the evidence presented I am satisfied that Mr Hala will be closely supervised when carrying out his duties. There is no evidence to suggest that Mr Hala will not be vigilant and will not use his best endeavours to ensure stolen goods do not pass through the business in which he is employed. While his offending was serious he had no convictions for dishonesty or theft. The earlier convictions are historical and have little relevance to the current application.

[8] I am therefore satisfied Mr Hala can be trusted to comply with his obligations as a secondhand dealer under Part 3 of the Act. I note that my decision may have been different if Mr Hala was not working under close supervision or had been applying for a licence to operate his own business rather than a certificate.

Conclusion

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

DATED at Auckland this 17 day of November 2016

P A McConnell

Licensing Authority of Secondhand Dealers and Pawnbrokers