

Mike DeWine
Governor

**STATE OF OHIO
DEPARTMENT OF COMMERCE
Division of Financial Institutions
Consumer Finance**

Sheryl Maxfield
Director

In the matter of:

Case No. M2023-16

JAMES PAVLISH
d/b/a MISTER MONEY BAGS
1642 W. Ridgewood Drive
Parma, Ohio 44134

DIVISION ORDER
TO CEASE AND DESIST,
IMPOSITION OF FINE, &
NOTICE OF APPELLATE RIGHTS

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division"), is charged with the responsibility of administering and enforcing the Ohio Precious Metals Dealers Act as codified in the Ohio Revised Code ("R.C.") Chapter 4728, finds that this Order is necessary and appropriate, in the interest of the public, and is consistent with the purposes of the Ohio Precious Metals Dealers Act.

WHEREAS, James Pavlish d/b/a Mister Money Bags ("Respondent") is an individual operating under a Registered Trade Name with the Ohio Secretary of State and does not currently hold a license to engage in business as a Precious Metal Dealer pursuant to R.C. Chapter 4728. Respondent's address of record is 1642 W. Ridgewood Drive, Parma, Ohio 44134;

WHEREAS, the Division issued Respondent an Order to Show Cause and Notice of Hearing Notice of Intent to Impose Fine and Notice of Opportunity for Hearing. A hearing was held before Hearing Examiner, Daniel A. Malkoff, Esq. on September 19, 2023;

WHEREAS On November 2, 2023 the Hearing Examiner Malkoff issued a Report and Recommendation pursuant to R.C. 119.09. A true copy of the report and recommendation is attached hereto and incorporated herein. Respondent did not file objections to the report and recommendation.

NOW THEREFORE, the Superintendent of the Division of Financial Institutions hereby Confirms and Adopts the Hearing Examiner's Report and Recommendation. Respondent is hereby ordered to cease and desist violating R.C. 4728 *et. seq.* and to pay the Division a fine in the amount of ten thousand dollars (\$10,000.00). Payment shall be in the form of a cashier's check or money order, made payable to "Treasurer of the State of Ohio," and, within thirty (30) days of receipt of this Order.

IT IS SO ORDERED.


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NOTICE OF APPELLATE RIGHTS

Respondent is hereby notified that pursuant to R.C. 119.12, this Division Order may be appealed by filing a notice of appeal with the Division setting forth the order that Respondent is appealing from and stating that the Division's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may also include, but is not required to include, the specific grounds for the appeal. The notice of appeal must also be filed with the appropriate court of common pleas in accordance with R.C. 119.12. In filing the notice of appeal with the Division or court, the notice that is filed may be either the original notice or a copy of the original notice. The notice of appeal must be filed within fifteen (15) days after the date of service of this Division Order.

Signed and sealed this 24th day of January 2024.




PAMELA J. PRUDE-SMITHERS
Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce

**STATE OF OHIO
DEPARTMENT OF COMMERCE
Division of Financial Institutions
Consumer Finance**

IN THE MATTER OF: :
JAMES PAVLISH d/b/a MISTER MONEY : REPORT AND RECOMMENDATION
BAGS. :
 : Daniel A. Malkoff
CASE NO. M2023-16 : Hearing Examiner
 : November 2, 2023
 :

Appearances: For the Department of Commerce, Division of Financial Institutions, Consumer Finance: Assistant Attorney General Jacob Erwin and Principal Assistant Attorney General Daniel J. Martin.

I. INTRODUCTION/BACKGROUND

On August 9, 2023, The Ohio Department of Commerce, Division of Financial Institutions, Consumer Finance (“Division”) issued an Order to Show Cause and Notice of Hearing to James Pavlish d/b/a Mister Money Bags (hereinafter “Respondent”). The Order to Show Cause and Notice of Hearing states, in part, that “Pursuant to R.C. 4728.05 and R.C. Chapter 119, Respondent is hereby ordered to appear and show cause why it should not be subject to licensure under the Ohio Precious Metals Dealer Act, R.C. Chapter 4728. The hearing shall be held on Tuesday, September 19, 2023, at 10:00 a.m. in the offices of the Division of Financial Institutions, Vern Riffe Center for Government and the Arts, 77 South High Street, 21st Floor, Columbus, Ohio 43215.” (State’s Exhibit A)

A hearing in this matter was conducted on September 19, 2023, at the Division’s offices. Respondent was not present at the hearing. Appearing for the Division were Assistant Attorney

General Jacob Erwin and Principal Assistant Attorney General Daniel J. Martin. The hearing was conducted pursuant to R.C. Chapter 119 and R.C. 4728.05(E). The sole witness at the hearing was Philip R. Miele, Esq. (hereinafter “Mr. Miele”). Mr. Miele is employed by the Division as Assistant Division Counsel and is assigned to the enforcement section of the Division. (Transcript p. 9) Mr. Miele testified under oath and a stenographic record of the hearing was made pursuant to R.C. 119.09. During the hearing the Division introduced Exhibits A through E which were admitted into the record.¹

A. Issue Presented for Review

The issue in this case is whether Respondent acted as a precious metals dealer without first having obtained a license from the Division as required by R.C. 4728.02(A), and whether such conduct authorizes the Division to issue a cease and desist order and impose a monetary penalty pursuant to R. C. 4728.05(E).

B. Order to Show Cause and Notice of Hearing

In the Order to Show Cause and Notice of Hearing, the Division alleges that “Respondent does not currently hold and has never applied for a precious metals dealer’s license issued by the Division,” and cites to R.C. 4728.02(A) which states, in part, that “...no person shall act as a precious metals dealer without first having obtained a license from the division of financial institutions in the department of commerce.” Count One provides several factual allegations pertaining to Respondent’s business activities. Specifically, the Division alleges that Respondent, through his website, blog and YouTube channel, advertised to the public that Mister Money Bags was in the business of buying, among other things, gold, silver and jewelry, provided step by step details on how the buying process

¹ There was some confusion in the record regarding the numbering of exhibits. There were a total of 5 exhibits admitted into evidence, Division Exhibits A-E. Although there was some discussion about an exhibit F, there is no exhibit F in the record of this case.

works, provided instructions relating to valuation of certain types of precious metals, and provided testimonials promoting the business. Count One also states that Respondent held himself out to the public as an expert appraiser.

Under the heading “Notice of Hearing on Proposed Action” the Division states as follows:

“Pursuant to R.C. 4728.05(E) and R.C. Chapter 119, Respondent is hereby ordered to appear and show cause why it should not be subject to licensure under the Ohio Precious Metals Dealer Act, R.C. Chapter 4728. The hearing shall be held on Tuesday, September 19, 2023 at 10:00 a.m. in the offices of the Division of Financial Institutions, Vern Riffe Center for Government and the Arts, 77 South High Street, 21st Floor, Columbus, Ohio 43215.”

Under the heading “Law and Rules,” the Division cites to and provides the language of several sections of the Precious Metals Dealer Act, R.C. Chapter 4728 *et seq.* (hereinafter “PMDA”), including R.C. 4728.05(E):

“ If the superintendent determines, after notice and a hearing conducted in accordance with Chapter 119, of the Revised Code, that a person is engaged in, or is threatening to engage in activities that constitute a violation of this chapter, the superintendent may issue a cease and desist order that describes the person and activities that are subject to the order and may impose upon the person a penalty of not less than one hundred nor more than ten thousand dollars for a violation of this chapter. Any cease and desist order and any penalty issued under this section are enforceable in and may be appealed to a court of common pleas pursuant to Chapter 119, of the Revised Code.”

C. Service of the Order to Show Cause and Notice of Hearing

The Order to Show Cause and Notice of Hearing, and a letter scheduling the hearing were mailed to James Pavlish d/b/a Mister Money Bags via certified mail, return receipt requested on August 9, 2023. (State’s Exhibit A) A signed certified mail receipt card was received by the Division on August 22, 2023. (pp. 6-7 of State’s Exhibit A) As additional proof of service, the Division tracked the certified mailing of the Order to Show Cause and Notice of Hearing and the scheduling letter on the United States Postal Service website. The Division introduced a screen

shot from that website showing that the August 9, 2023 mailing was delivered on August 15, 2023.
(State's Exhibit D)

II. Testimony presented by the Division

The Division's witness, Mr. Miele, testified that the "starting point" of this matter was the Division's receipt of an anonymous letter. (Transcript p. 20, State's Exhibit B) The anonymous letter was received by the Division on May 27, 2020. The letter states that Respondent: "...is offering to pick up items for mobile pawn out of his home...He is not licensed and doing 100's of thousands in business." Attached to the letter are two pages that appear to be screen shots of Mr. Money Bag's website. The first screen shot states: "WE BUY GOLD, SILVER AND JEWELRY." "#1 Pawn Shop in Cleveland, OH!" "We Offer Top Dollar for Your Items." "Everybody says they'll pay the most...we'll really do and we'll prove it to you." The name "Mister Money Bags" appears on the bottom left corner of the screen shot. The second screen shot attached to the letter provides some additional information, including a phone number, and email address (jim@mistermoneybags.com), hours of operation and what appears to be a testimonial from a customer. Additionally, the page states "Mr. Money Bags is mobile!-Serving the Greater Cleveland, Ohio Area including Parma, Strongsville, Mentor, Independence, Lorain, Sylvania, Willoughby, Euclid, Beachwood, North Olmsted, and surrounding areas!"

After receiving the anonymous letter, the Division referred the matter to its enforcement section. (Transcript p. 19) On January 3, 2023, Jeff Angell, who was the Division's Chief Examiner for Consumer Finance, sent a letter via email to Respondent. (State's Exhibit C) The letter states, in part:

"The Ohio Division of Financial Institutions ("Division") understands that you may be engaging in the activities of a precious metals dealer as defined in Ohio Revised Code ("ORC") Section 4728.01. The Division does not have evidence that you have an active license pursuant to the Ohio Precious Metals Dealers Act. Therefore, the Division requests, within 14 days of receipt

of this letter, that you either file an application for a precious metals dealer license or provide a written response explaining how your activities are exempt from licensing requirements in this law. Pursuant to ORC 4728.13(C), the burden of proving exemption from the licensing provisions of the Ohio Precious Metals Dealers Act is on the entity claiming the benefits of the exemption.”

The letter provided, among other things, instructions for a written response and information regarding how to apply for a precious metals dealer license. The letter concluded with a paragraph in which Mr. Angell stated that www.mistermoneybags.com contained representations and descriptions of Respondent’s business as a pawnshop, and that pursuant to the Ohio Pawnbroker Act, a pawnbroker’s license was required to advertise or solicit business as a pawnbroker. Mr. Angell requested that all such representations and descriptions be immediately removed from Respondent’s website or any other advertising.

Respondent did not respond to Mr. Angell’s letter. (Transcript pp. 19, 28-29) Having received no response to Mr. Angell’s letter, the Division issued the Order to Show Cause and Notice of Hearing and letter scheduling a hearing. The Order to Show Cause and Notice of Hearing was issued because despite not having a license as a precious metals dealer or pawnbroker Respondent held himself out as willing to purchase precious metals, through his website, blog, and a YouTube channel. Mr. Miele testified that neither Mr. Pavlish nor Mister Money Bags has ever applied for a precious metals dealer license, Mr. Pavlish has never applied for a pawnbroker’s license, and Mr. Pavlish has never obtained any license that may be obtained from the Division. (Transcript pp. 17, 34-36)

During the hearing, Respondent’s website mistermoneybags.com was projected on a screen and Mr. Miele discussed the content of the website. As alleged in the Order to Show Cause and Notice of Hearing, Respondent, through mistermoneybags.com, advertises to the public that Mister Money Bags purchases “Gold, Silver, and Jewelry,” and states “We Offer Top Dollar for Your Items.” The website also advertises that Mister Money Bags buys diamonds and platinum, provides

details regarding the process for buying precious metals, and provides testimonials promoting Respondent's business.

Mr. Miele testified that the Division knew of the activities on the website since May 27, 2020, and the website has continually operated since that time (Transcript p 24). He testified that Respondent continues to engage in advertisements for the sale of gold, silver, and jewelry on his website (Transcript p. 22), and while the format of the website has changed since 2020, the basic substance of the website has remained unchanged. (Transcript pp. 22-23 and 25)

Mr. Miele also testified about Respondent's blog that can be accessed from mistermoneybags.com. Screen shots from the the blog were admitted as State's Exhibit E. The blog provides users with a series of links to articles providing advice on a several topics. (Transcript pp.17-18) Topics include "Is your gold jewelry real?" and "Sell your diamond jewelry the right way."² (Transcript pp. 40-42) The blog states that Respondent sells and purchases gold jewelry and purchases pre-owned diamond jewelry, earrings, and rings. For example, the blog states: "looking to sell your diamond ring, necklaces, anklets, bracelets, or other jewelry? Let Mister Money Bags give you the best price." The website also contains testimonials of customers regarding their experiences in selling jewelry to Respondent. Mr. Miele testified that diamonds and gold constitute precious metals, and through the blog, Respondent holds himself out as willing to buy these items. (Transcript pp. 41-42)

Respondent also advertises on YouTube. A YouTube video was played during the hearing.³ (Transcript p. 26) In the video a speaker states that Mister Money Bags is a "Cleveland based mobile pawn shop that guarantees you a top value cash payout." The speaker goes on to say that

² The blog is also found at www.mistermoneybags.com/blog.

³ https://www.youtube.com/results?search_query=mister+money+bags+cleveland+pawn.

Mister Money Bags buys gold, silver and jewelry and offers top dollar for items. Additionally, the process for selling precious metals is described in the video.

III. Law and Discussion

The PMDA requires every dealer of precious metals to first apply for and obtain a license to sell precious metals. R.C. 4728.02 provides, in part, that: "...no person shall act as a precious metals dealer without first having obtained a license from the division of financial institutions in the department of commerce." A Precious metals dealer is defined in R.C. 4728.01(A) as "a person who is engaged in the business of purchasing articles made of or containing gold, silver, platinum, or other precious metals or jewels of any description if, in any manner, including any form of advertisement or solicitation of customers, the person holds himself, herself, or itself out to the public as willing to purchase such articles."

The PMDA contains exemptions from the requirement that precious metals dealers obtain a precious metals dealer license from the Division. The exemptions are set forth in R.C. 4728.12. A person claiming the benefit of an exemption from licensure has the burden of proving that an exemption is applicable. R.C. 4728.13(C) states: "In any proceeding or action brought under this chapter, the burden of proving an exemption from a requirement of this chapter falls on the person claiming the benefit of the exemption."

The PMDA tasks the Division with general enforcement authority including the authority to investigate the conduct of precious metals dealers. R.C. 4728.05(E) provides that if, pursuant to an investigation, the Superintendent of the Division "...determines that a person not licensed under this chapter, or an employee of that person, has been or is engaged or is threatening to engage in activities for which a license is required under this chapter, the superintendent may issue an order

to that person requiring the person to show cause why the person should not be subject to licensure under this chapter.”

R.C. 4728.05(E) also provides the Division with authority to take disciplinary action, after notice and hearing conducted in accordance with R.C. Chapter 119, against persons who violate the PMDA. Specifically, R.C. 4728.05(E) provides “ If the superintendent determines, after notice and a hearing conducted in accordance with Chapter 119, of the Revised Code, that a person is engaged in, or is threatening to engage in activities that constitute a violation of this Chapter, the superintendent may issue a cease and desist order that describes the person and activities that are subject to the order, and may impose upon the person a penalty of not less than one hundred nor more than ten thousand dollars for a violation of this chapter. Any cease and desist order and any penalty issued under this section are enforceable in and may be appealed to a court of common pleas pursuant to Chapter 119, of the Revised Code.”

A. Service of the Order to Show Cause and Notice of Hearing; Compliance with R.C. 4728.05(E) and R.C. Chapter 119

In compliance with R.C. 4728.05(E) and R.C. Chapter 119, the Order to Show Cause and Notice of Hearing along with a letter scheduling a hearing for September 19, 2023, were served on Respondent by certified mail, return receipt requested on August 15, 2023. The content of the Order to Show Cause and Notice of Hearing substantially complied with R.C.119.07. It informed Respondent of his right to appear in person, through an attorney or by such other representative as is permitted to practice before the Division and the right to present evidence and examine witnesses appearing for and against Respondent. And it informed Respondent of his right to present his position, arguments, or contentions in writing. The Order to Show Cause and Notice of Hearing also included the charges, reasons, and the law in support of the Division’s position, and included

the language of R.C. 4728.05(E) which describes the Division's authority to impose discipline on persons engaged in unlicensed conduct after a hearing.

Respondent did not appear at the hearing and there is no evidence that he provided his position, arguments, or contentions in writing. When a respondent does not appear at an administrative hearing to contest the charges of a state agency, due process requires the agency to conduct a meaningful evidentiary review prior to issuing an adjudication order. See *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124 (10th Dist. 1996), (holding that the "...procedural safeguards which would make any hearing meaningful may not require a full adversarial and evidentiary proceeding, but some sort of reliable evidentiary review, including the sworn testimony of the investigator, as well as a more considered review of the circumstances of the case, would be needed...") *id* at 129

In the present case the Division, after providing Respondent with an opportunity to be heard, conducted a meaningful evidentiary review pursuant to R.C. 119.09 and R.C. 4728.05(E). The evidentiary hearing on September 19, 2023, included the sworn testimony of Mr. Miele who provided testimony and documentary evidence in support of the Division's allegations of Respondent's unlicensed conduct.

I find that the Division complied with R.C. 4728.05(E) and R.C. Chapter 119, by providing Respondent with notice of the hearing, and by conducting a meaningful and reliable evidentiary review.

B. Respondent acted as a precious metals dealer as defined in R.C. 4728.01(A)

Based upon a review of the evidence provided by the Division at the hearing, I find that the Division proved by a preponderance of the evidence that Respondent acted as a precious metals

dealer, as defined in R.C. 4728.01(A).⁴ The evidence presented at the hearing established that Respondent solicited prospective customers through his website, blog and YouTube channel in which he held himself out as willing to purchase items containing gold, silver, and other precious metals. While no proof was provided showing that Respondent purchased precious metals (other than a statement in an anonymous letter), such proof is not required to conclude that Respondent acted as a precious metals dealer. R.C. 4728.01(A) states that a precious metals dealer is a person engaged in the business of purchasing precious metals “...if, in any manner including any form of advertisement or solicitation of customers, the person holds himself, herself, or itself out to the public as willing to purchase such articles.” Ample evidence was provided at the hearing that Respondent advertised and solicited customers for the purpose of purchasing precious metals including diamonds, gold, silver, and jewelry and otherwise held himself out as willing to purchase precious metals.

C. Respondent is not licensed by the Division as a precious metals dealer or pawnbroker.

Through the testimony of Mr. Miele, the Division proved by a preponderance of the evidence that Respondent acted as a precious metals dealer without having first obtained a precious metals dealer license or a pawnbroker’s license in violation of R. C. 4728.02(A). The burden of proving an exemption from any requirement of the PMDA falls on the person claiming the exemption. See R.C. 4728.13(C). Respondent was provided with an opportunity to provide evidence of an exemption at the hearing through the presentation of testimony and through the submission of his position in writing, but he did not appear or provide his position in writing.

⁴ R.C. Chapter 119 does not explicitly define the burden of proof required in an administrative hearing, but the Supreme Court of Ohio has held that the standard for administrative cases is preponderance of the evidence. *VFW Post 8586 v. Ohio Liquor Control Comm.*, 83 Ohio St. 3d 79,81 (1998). Preponderance of the evidence is evidence that demonstrates that it is more likely than not that the events charged occurred. See *Pang v. Minch*, 53 Ohio St.3d 186, 197 (1990).

D. Pursuant to R.C. 4728.05(E) the Division is authorized to issue an order requiring Respondent to cease and desist engaging in the business of a precious metals dealer and may impose upon Respondent a penalty of not less than one hundred nor more than ten thousand dollars for a violation of the PMDA

Because the Division proved by a preponderance of the evidence that Respondent engaged in the business of a precious metals dealer without a first obtaining a precious metals dealer license in violation of R.C. 4728.02(A), it has the authority to issue a cease a desist order and to impose a monetary penalty of no less than one hundred nor more than ten thousand dollars pursuant to R.C. 4728.05(E).

At the hearing, counsel for the Division, in addition to arguing for the issuance of a cease and desist order, argued that Respondent should be subject to the maximum monetary penalty of ten thousand dollars. He argued that this penalty is appropriate because “Respondent operated his website and YouTube channel for at least two years,” and because “the Division never received a meaningful response or cooperation or formal acknowledgment from Pavlish showing he has not engaged in these activities for two years and is an unlicensed individual interacting with the public, that they may be relying upon...” (Transcript pp. 45,46) The two years referenced by counsel appears to be a reference to the approximate amount of time the Division was aware of Respondent’s website activity from its receipt of the anonymous letter in 2020.

There was no testimony as to whether the Division maintains a policy or guidelines regarding the imposition of a monetary penalty. Generally, monetary penalties are designed to deter conduct contrary to a regulatory scheme. *State ex rel. Ohio AG. v. Shelly Holding Company* 191 Ohio App. 3d 421, 441, 946 N.E.2d 295, 311, 2010-Ohio-6526 (10th Dist.). It is unclear whether a monetary penalty is necessary to deter Respondent from engaging in future unlicensed conduct. It may be the case that the issuance of a cease and desist order alone will be a sufficient

deterrent. Nevertheless, the General Assembly provided the Division's Superintendent with broad discretion to issue a monetary penalty within the parameters of R.C. 4728.05(E).

Because the Division proved by a preponderance of the evidence that Respondent violated R.C. 4728.02(A), and continued to hold himself out to the public as willing to purchase precious metals after the issuance of the Division's January 3, 2023 letter and after the issuance of the Notice to Show Cause and Notice of Hearing, I find that the Division is authorized to impose a monetary penalty on Respondent within the parameters of R.C. 4728.05(E).

IV. FINDINGS OF FACT

1. On May 27, 2020, The Division received an anonymous letter which stated that Mr. Pavlish "...is offering to pick up items for mobile pawn out of his home...He is not licensed and doing 100's of thousands in business." Attached to the letter are screen shots from Respondent's website stating that Mister Money Bags is the #1 pawn shop in Cleveland Ohio, buys gold, silver, and jewelry, and offers top dollar for items. Another page from the same website, provides hours of operation, a phone number to call, an email address, a statement that Mister Money Bags is mobile and serves the greater Cleveland area, and a customer testimonial regarding precious metal sales. (State's Exhibit B)
2. On January 3, 2023, the Division's Chief Examiner for Consumer Finance, sent a letter via email to Respondent stating that the Division had evidence that Respondent may be engaging in unlicensed sales of precious metals. The letter requested a written response in 14 days. Respondent did not respond to the email. (State's Exhibit C)

3. Respondent does not have a precious metals dealer license, or any other license issued by the Division.
4. On August 9, 2023, the Division issued an Order to Show Cause and Notice of Hearing to James Pavlish d/b/a Mister Money Bags. The Order to Show Cause and Notice of Hearing was accompanied by a letter to Mr. Pavlish dated August 9, 2023. The Order to Show Cause and Notice of Hearing, and the letter scheduling the hearing notified Mr. Pavlish that a hearing was scheduled for September 19, 2023. (State's Exhibit A).
5. The August 9, 2023, Order to Show Cause and Notice of Hearing, and the letter scheduling a hearing were mailed to James Pavlish d/b/a Mister Money Bags via certified mail, return receipt requested to the following address: 1642 W. Ridgewood Drive, Parma, Ohio 44134. (State's Exhibit A)
6. The Order to Show Cause and Notice of Hearing, and the letter scheduling the hearing were received at the aforementioned address as evidenced by a signed certified mail receipt. (State's Exhibit A) The date of receipt was August 15, 2023, as evidenced by a United States Postal Service tracking report. (State's Exhibit D)
7. Mr. Pavlish did not appear at the hearing to contest the Division's charges or to show cause why he should not be subject to licensure pursuant R.C. 4728.02(A).
8. In its Order to Show Cause and Notice of Hearing, the Division states that Respondent does not currently hold and has never applied for a precious metals dealer license. The Division also provided examples of advertisements and/or solicitations on Respondent's website, blog, and YouTube channel in which he held

himself out to the public as being willing to purchase precious metals and act as an appraiser of precious metals. (State's Exhibit A)

9. Respondent, through mistermoneybags.com, advertises to the public that Mister Money Bags purchases precious metals including gold, silver, diamonds and platinum. The website also provides details regarding the process for buying precious metals and provides testimonials promoting Respondent's business.
10. Respondent also maintains a blog (State's Exhibit E) that can be accessed through www.mistermoneybags.com/blog. The blog provides users with a series of links to articles providing advice on a several topics. Topics include "Is your gold jewelry real?" and "Sell your diamond jewelry the right way." The blog states that Respondent sells and purchases gold jewelry and purchases pre-owned diamond jewelry, earrings, and rings. For example, that blog states: "looking to sell your diamond ring, necklaces, anklets, bracelets, or other jewelry? Let Mister Money Bags give you the best price." The website also contains testimonials of customers regarding their experiences in selling jewelry to Respondent.
11. Respondent also advertises on YouTube. In Respondent's YouTube video a speaker states that Respondent is a "Cleveland based mobile pawn shop that guarantees you a top value cash payout." The speaker also states that Respondent buys gold, silver and jewelry and offers top dollar for items. The process for buying precious metals is also described in the video.

V. Conclusions of Law

1. The Division is authorized by R.C. 4728.05(E) to issue an Order to Show Cause and Notice of Hearing to Respondent.
2. The Division served the Order to Show Cause and Notice of Hearing on Respondent in accordance with R.C. Chapter 119.
3. The Notice of Hearing substantially complied with Chapter 119.07.
4. The Division conducted a hearing on September 19, 2023, in accordance with R.C. R.C 119.09.
5. The Division proved by a preponderance of the evidence that Respondent is acting as a precious metals dealer, as defined in R.C. 4728.01(A) without first having obtained a license in violation of R.C. 4728.02(A).
6. There is no evidence establishing that Respondent is exempt from licensure requirements pursuant to R.C. 4728.12.
7. The Division is authorized by R.C. 4728.05(E) to issue a cease a desist Order to Respondent and to impose a monetary penalty of not less than one hundred nor more than ten thousand dollars, because after notice and a hearing conducted in accordance with R.C. Chapter 119 on September 19, 2023, the Division proved by a preponderance of the evidence that Respondent engaged in and is threatening to engage in activities that constitute a violation of the Precious Metals Dealers Act.

VI. RECOMMENDATION

Based upon the evidence presented by the Division at the September 19, 2023, hearing in this matter, I recommend that the Superintendent of the Division of Financial Institutions issue a Cease and Desist Order to Respondent ordering him to cease activities in violation of R.C. Chapter

4728 *et. seq.* Additionally, I recommend that the Superintendent of the Division of Financial Institutions impose upon Respondent a monetary penalty of no less than one hundred nor more than ten thousand dollars pursuant to R.C. 4728.05(E).



Hearing Examiner
November 2, 2023