

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKS AND REAL ESTATE

IN THE MATTER OF:)
)
Fullerton Jewelry & Loan Co.) DBR No. 2005-BTC-18
5900 West Fullerton Avenue)
Chicago, Illinois 60639)

ORDER DENYING PAWNBROKER LICENSE RENEWAL

The SECRETARY OF THE DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION (the "Secretary") hereby issues to Fullerton Jewelry & Loan Co. ("Fullerton"), 5900 West Fullerton Avenue, Chicago, Illinois, this ORDER DENYING PAWNBROKER LICENSE RENEWAL ("Order"). This Order is authorized and issued pursuant to the provisions of Section 0.05(a)(2) of the Pawnbroker Regulation Act (the "Act") [205 ILCS 510/0.05(a)(2)].

FINDINGS OF FACT

The Secretary FINDS the following:

1. Fullerton is an Illinois corporation that holds a license to conduct a pawnbroker business at 5900 West Fullerton Avenue, Chicago, Illinois, issued pursuant to the Act on or about July 1, 2004, with an expiration date of June 30, 2005, and designated as License No. 2004-PWN.0000071;
2. On or about May 16, 2005, the Department of Financial and Professional Regulation (the "Department") received Fullerton's Application for License Renewal Under the Pawnbroker Regulation Act (the "Renewal Application") pursuant to which Fullerton sought to renew its pawnbroker license for the period beginning July 1, 2005 and ending June 30, 2006;
3. The Renewal Application was prepared and signed by Mark Barats ("Barats"), the President of Fullerton and its sole shareholder;
4. At all times relevant to the Findings of Fact set forth in this Order, Barats was an officer of Fullerton and owned 10% or more of Fullerton's outstanding stock;

5. Barats and Fullerton received instructions from the Department to complete the Renewal Application, including an instruction that defined the term “principal party” to include any officer of a corporate pawnshop and any owner of 10% or more of the stock of a corporate pawnshop;
6. On or about May 24, 2004, Barats was convicted of a misdemeanor in Cook County, Illinois, Circuit Court arising out of one or more occurrences at Fullerton’s business premises in which Barats knowingly obtained control over property in the custody of the Cook County Sheriff’s Police subsequent to representations to Barats that the property was stolen;
7. In response to an inquiry on the Renewal Application, Barats and Fullerton indicated that neither Fullerton nor any principal party of Fullerton had been convicted of a “criminal offense relating to dishonesty or breach of trust since April 1, 2004”;
8. Barats signed the Renewal Application on or about April 28, 2005, on page 3 of the Renewal Application, immediately below the following admonition: “The undersigned further certifies that (s)he is authorized to sign this application and further understands that the submission of any false or misleading statement may be grounds for denial or revocation of license”;
9. Title 38 of the Illinois Administrative Code, Part 360, sets forth administrative rules promulgated pursuant to the Act, including rules affecting pawnbroker license renewals;
10. 38 Ill. Adm. Code, Section 360.160(b), provides that license renewal applications must meet the standards necessary to obtain a new license as set forth in 38 Ill. Adm. Code, Section 360.130;
11. 38 Ill. Adm. Code, Section 360.130, provides, in part, that new license applicants and all principal parties (and therefore renewal license applicants and their principal parties) must not have been convicted of “any criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop” and must “possess the character and general fitness necessary to warrant belief that the business will be operated in a lawful and fair manner”;
12. 38 Ill. Adm. Code, Section 360.10, defines “principal party” to include officers of corporate pawnshops and owners of 10% or more of the stock of a corporate pawnshop;
13. The criminal offense Barats was convicted of, as summarized in paragraph 6 above, is a criminal offense relating to dishonesty or breach of trust, and it occurred in connection with the operations of Fullerton;

14. The conviction of a criminal offense of the type specified in 38 Ill. Adm. Code, Section 360.130, is not an absolute bar to license renewal in that the Secretary must consider “the nature of the offense, the amount of time since the conviction, and any other mitigating factors” the Secretary deems appropriate;
15. Mitigating factors sufficient to justify renewal of Fullerton’s pawnbroker license do not exist;
16. The totality of the circumstances, including the pattern of past practices regarding the operations of Fullerton as conducted by Barats, indicates that Barats does not possess the necessary character and general fitness to warrant belief that Fullerton will be operated in a fair and lawful manner. Such circumstances include:
 - (a) operating Fullerton in violation of Section 8 of the Act [205 ILCS 510/8] by purchasing property from a minor in September 2003;
 - (b) operating Fullerton in violation of Section 10 of the Act [205 ILCS 510/10] by selling or disposing of a pledged item prior to the expiration of a customer’s grace period in September 2004;
 - (c) operating Fullerton in violation of criminal laws as summarized in paragraph 6 above; and
 - (d) providing a false statement on the Renewal Application in response to the inquiry regarding criminal convictions of Fullerton or any of its principal parties subsequent to April 1, 2004.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Secretary **CONCLUDES**:

1. That Barats, as a principal party of Fullerton, does not meet the standards necessary to permit the renewal of Fullerton’s pawnbroker license because he committed a criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop, and mitigating factors sufficient to justify approval of the Renewal Application do not exist; and
2. That Barats, as a principal party of Fullerton, does not possess the character and general fitness necessary to warrant belief that Fullerton will be operated in a lawful and fair manner.

NOW THEREFORE IT IS HEREBY ORDERED:

1. The Application for License Renewal Under the Pawnbroker Regulation Act submitted by Fullerton to renew its pawnbroker license, for the period beginning July 1, 2005 and ending June 30, 2006, is hereby denied;
2. On or before June 30, 2005, Fullerton shall provide the Department a list of all open pawn loans, and such list shall include, at a minimum, the pawn customer's name and address, the amount loaned and the date of the loan, and the property pledged; and
3. On or before June 30, 2005, Fullerton shall provide the Department a detailed plan for the orderly disposition of its open pawn loans and all pledged property.

ORDERED THIS 21st DAY OF JUNE, 2005.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION of the State of Illinois;
FERNANDO E. GRILLO, SECRETARY

DIVISION OF BANKS AND REAL ESTATE

D. Lorenzo Padron
Director of Banks and Real Estate

By:

SCOTT D. CLARKE
Assistant Director

You are hereby notified that this Order is an administrative decision. Pursuant to 38 Ill. Adm. Code, Section 392, any party may file a request for a hearing on an administrative decision. The request for a hearing shall be filed within 10 days after the receipt of an administrative decision. A hearing shall be held within 30 days after the receipt by the Secretary of the Department of Financial and Professional Regulation of a request for a hearing. Absent a request for a hearing, this Order shall constitute a final administrative Order subject to the Administrative Review Law [735 ILCS 5/3-101, *et seq.*].