

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

GEORGIA REAL ESTATE COMMISSION,

Petitioner,

v.

COLEMAN R. SIGMAN,

Respondent.

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) DOCKET NO. OSAH-GREC-
) SAN-1316939-107-Schroer
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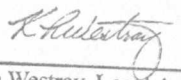


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OSAH

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INITIAL DECISION

I. INTRODUCTION


Kevin Westray, Legal Assistant

Respondent Coleman R. Sigman requested a hearing under O.C.G.A. § 43-40-15(i) to contest the automatic revocation of his real estate license due to a recent conviction. Pursuant to O.C.G.A. § 43-40-16(a) and O.C.G.A. § 50-13-13, the hearing on this matter was held on November 28, 2012 before the Office of State Administrative Hearings (“OSAH”). Sigman appeared *pro se* and testified on his own behalf. Petitioner Georgia Real Estate Commission (“Commission”) was represented by Senior Assistant Attorney General Alison Spencer. After careful consideration of all the evidence of record in this case, and based upon a preponderance of evidence, the Administrative Law Judge concludes that Sigman’s license should not be revoked and that no sanction should be imposed as a result of the conviction.

II. FINDINGS OF FACTS

1.

Sigman holds a real estate broker’s license (#S338706) in the State of Georgia. Sigman is seventy-two years old and has maintained an active real estate license, either as

a broker, associate broker, or qualifying broker, for over forty years. He has never been sanctioned by the Commission and has never had a complaint lodged against him relating to his performance as a real estate broker. (Ex. P-1; Testimony of Sigman)

2.

In addition to the real estate business, Sigman has been involved in politics in his hometown of Covington, Georgia. Sigman served in the Georgia General Assembly in the 1970s and on the Covington City Council in the early 1990s. He also ran unsuccessfully for other political offices over the years, including the Georgia State Senate and mayor of Covington. He has not held an elected office since 1996. (Testimony of Sigman)

3.

In or around 2011, Sigman ran for mayor of Covington for a second time. During the campaign, Sigman's opponent, Ronnie Johnston, displayed a number of yard signs supporting his candidacy. While campaigning door-to-door, Sigman made a remark in jest to a Covington voter that he would pay five dollars for the Johnston sign that was in the voter's front yard. Some days later, a young man, who had overheard Sigman's remark, contacted Sigman and wanted to sell him some Johnston campaign signs, which the young man apparently had removed from yards around Covington. (Testimony of Sigman)

4.

Sigman, in what he admits was a gross misjudgment, agreed to meet the young man. Unbeknownst to Sigman, the local police¹ had been alerted to the meeting and had arranged to have the young man wired in order to tape his meeting with Sigman. When Sigman arrived at the meeting, he discovered that the young man had numerous Johnston campaign signs, which he offered to sell to Sigman. Sigman put the signs in his vehicle. He testified at the hearing that he was unsure of what to do, but that he intended to call Johnston and return the signs to him the next day. (Testimony of Sigman)

5.

On or about October 12, 2011, Sigman was indicted in the Superior Court of Newton County on a felony count of making a false statement for “denying his participation in a scheme to pay individuals to steal campaign signs,” as well as misdemeanor charges of criminal trespass and theft by taking. These charges, so close to the election, received considerable media attention and caused Sigman and his family great embarrassment. Sigman withdrew from the mayoral race. (Testimony of Sigman, Buckley; Ex. P-2)

¹ Sigman testified that earlier in his campaign he had promised that, if elected, he would work to remove members of the police department leadership who allegedly harassed African American citizens of Covington. Sigman believes that the police investigation was politically motivated and directly related to this campaign promise. From the preponderance of evidence in the record, including the credible testimony of long-time citizens of Covington, the Court concludes that the removal of a candidate's campaign signs by persons opposed to such candidate was a common practice in Covington. Moreover, the evidence also shows that police involvement in such occurrences was unheard of prior to Sigman's case. (Testimony of Sigman, Smallwood, Pace)

6.

Sigman, who was humiliated by these events, considered leaving the real estate business despite his forty-plus-year career and his enjoyment in “putting people in houses.” Although he believed he might be successful in a trial, he could not afford a good lawyer to represent him. Consequently, Sigman agreed to plead guilty under the First Offender Act to a felony charge of making a false statement and two misdemeanor charges of theft by taking. Under his plea agreements, which were filed with the Superior Court of Newton County on June 22, 2012, no adjudication of guilt was made on any of these charges. Rather, the Superior Court deferred the proceedings and sentenced Sigman to five years confinement to be served on probation for the felony count and twelve months to be served on probation for the two misdemeanor charges. As a special condition, Sigman was also ordered not to run for political office during the probation period. (Testimony of Sigman, Buckley; Exs. P-3, P-4, P-5, P-6)

7.

Sigman timely reported his sentencing to the Commission and was cooperative during its investigation. He requested a hearing to stop the automatic revocation of his broker’s license because he wants to continue to work in the real estate business. Sigman testified that he would suffer significant financial harm if he is unable to work in the only profession he has ever known. From all accounts, including the testimony of two long-time Covington residents, Richard Pace, a business person, and Darlene Smallwood, a real estate broker, Sigman has always held and continues to hold an excellent reputation in his community for professionalism, honesty, integrity, and “unquestionable trustworthiness.” Pace testified that Sigman, who has served as a broker in a number of

Pace's real estate transactions, is competent, experienced, and always "goes out of his way to help others." Smallwood, the broker/owner of Hometown Realty Consultants, Inc. and Sigman's current employer, supports Sigman's continued licensure and testified on his behalf at the administrative hearing. Smallwood, who has lived in Covington for fifty years, is aware of the charges against Sigman, which she characterized as "strictly politics," and attested to Sigman's competence and integrity in the real estate business. (Testimony of Sigman, Smallwood, Pace; Ex. P-7)

8.

Finally, Sigman credibly testified that he is remorseful for his actions in connection with the Johnston campaign signs and that he is no longer interested in pursuing political office. Sigman has been involved in a number of charitable and community activities in Covington over the years, including Alcoholics Anonymous and food ministries. (Testimony of Sigman, Smallwood, Pace)

III. CONCLUSIONS OF LAW

1.

The Commission bears the burden of proof. OSAH Rule 616-1-2-.07(1). The standard of proof is preponderance of the evidence. OSAH Rule 616-1-2-.21(4).

2.

The Commission has the full power to regulate the issuance of real estate brokers and salespersons' licenses and to discipline real estate licensees. O.C.G.A. § 43-40-14. As a general matter, the Commission requires that persons holding a real estate license "bear a good reputation for honesty, trustworthiness, integrity, and competence to

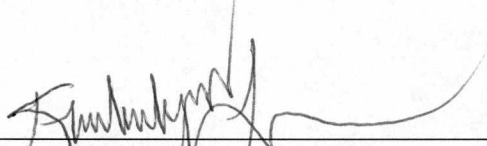
transact the business of a licensee in such manner as to safeguard the interest of the public.” O.C.G.A. § 43-40-15(a). In addition, *Code Section* 43-40-15(i) provides that the license of any real estate licensee who is convicted² of a felony will be automatically revoked 60 days after the conviction unless the licensee requests a hearing. Following the hearing, the Commission has the discretion to impose any sanction permitted under the statute. *Id.*

3.

Sanctions permitted under the statute included revocation, suspension, monetary assessments, fines, coursework, reporting, or other limitation or restrictions of a license. O.C.G.A. § 43-40-25(a). In determining whether a sanction is appropriate in this matter, this Court has considered a number of factors, including Sigman’s long, unblemished record as a real estate licensee, the unequivocal support of community members for his continued licensure, his reputation for honesty, competence and integrity as a real estate broker, and the unique circumstances, wholly unrelated to the real estate profession, that led to his sentencing to first offender treatment. Based on these factors, the Court concludes that a sanction is not appropriate in this case. There is no evidence that Sigman presents a risk to the interest of the public in connection with his work as a real estate broker. Moreover, Sigman has demonstrated that he continues to bear a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a real estate licensee. Accordingly, no disciplinary sanction is warranted under O.C.G.A. § 43-40-15(i).

² A “conviction” is defined by the statute to include sentencing to first offender treatment without an adjudication of guilt pursuant to a charge of a felony or any crime involving moral turpitude. O.C.G.A. §43-40-15(b)(1).

SO ORDERED THIS 4th day of January, 2013.



KIMBERLY W. SCHROER
Administrative Law Judge