

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

MARK BYRON FIELDS,)	
)	DOCKET NO. OSAH-GREC-
)	DEN-1403343-60-OAKLEY
Petitioner,)	
)	
v.)	Agency Reference No. #13C1101
)	
GEORGIA REAL ESTATE)	
COMMISSION,)	
)	
Respondent.)	

INITIAL DECISION

A hearing was held in this matter on August 29, 2013, pursuant to the Petitioner’s appeal of the denial by the Georgia Real Estate Commission of his Background Clearance Application for a Salesperson License (the “Application”). The Petitioner was present and proceeded *pro se*. The Respondent was represented by Alison Spencer, Senior Assistant Attorney General.

Findings of Fact

1.

The Petitioner is not licensed by the Commission at the present time. Exhibit R-1.

2.

In April, 2013, the Petitioner submitted the Application to the Commission. Exhibit R-3.

3.

The Petitioner responded in the affirmative to a question on the Application as follows: “Have you ever been disciplined by the Georgia Real Estate Commission and Appraisers Board or any other state or federal licensing agency or authority that regulates any profession?” Exhibit R-3.

4.

In February, 2007, the Petitioner’s state licensed real property appraiser classification was sanctioned by the Georgia Real Estate Appraisers Board (the “Board”) on the basis of his

violations of statutory and regulatory provisions governing the preparation of appraisals in the State of Georgia. The terms of the Consent Order which the Petitioner entered with the Board included a suspension of his classification for one hundred eighty (180) days and his payment of a fine in the amount of Five Thousand (\$5000.00) Dollars. Exhibit R-4.

5.

The Petitioner allowed his state licensed real property appraiser classification to lapse after the initiation of an investigation by the Board into his appraisal activities. On this basis, the Board revoked the Petitioner's classification as a state licensed real property appraiser in the State of Georgia. Exhibit R-5.

6.

There is abundant credible evidence in the record to support a finding that the Petitioner bears an excellent reputation for honesty, trustworthiness, integrity and competence to transact the business of a real estate licensee in such manner as to safeguard the interest of the public. Testimony of Mr. Hale, Mr. Cash, Mr. Brent and Mr. Gillim.

7.

There is credible evidence in the record to support a finding that the Petitioner is a person of high ethical standards. The Petitioner expressed genuine regret for his involvement in the circumstances which led to the Consent Order and the subsequent revocation of his state licensed real property appraiser classification. Commendably, the Petitioner did not seek to trivialize his earlier mistakes and accepted full responsibility for the commission of acts which were inconsistent with his commitment to high ethical standards. Testimony of Petitioner.

Conclusions of Law

1.

The Georgia Real Estate Commission has full power to regulate the issuance of real property appraiser classifications. O.C.G.A. § 43-40-14.

2.

The Petitioner bears the burden of proof in this matter. Ga. Comp. R. & Regs. r. 616-1-2-.07(1)(d).

3.

The Commission may issue real estate salesperson licenses only to those individuals who provide satisfactory proof of a good reputation for honesty, trustworthiness, integrity and competence to transact the business of a real estate licensee in such manner as to safeguard the interest of the public. O.C.G.A. §43-40-15(a). The record in this matter is replete with credible

evidence of the Petitioner's good reputation for the statutorily requisite attributes of good character.

4.

The revocation of the Petitioner's state licensed real property appraiser classification constitutes a sufficient basis for the Commission's refusal of the Petitioner's application for licensure as a real estate salesperson. O.C.G.A. § 43-40-15(h). Further, the Petitioner's acceptance of the terms of the Consent Order with the Board is a sufficient basis the Respondent's refusal of the Petitioner's application for licensure as a real estate salesperson. O.C .G.A. §43-40-15(e). It is concluded, however, that the Petitioner has carried his burden of proof in establishing his good character for honesty, trustworthiness, integrity and competence to transact the business of a real estate licensee in such manner as to safeguard the interest of the public.

Decision

For all the above and foregoing reasons, the Commission's denial of the Petitioner's Application for a real estate salesperson's license is **REVERSED**.

This 3d day of September, 2013.

Lois F. Oakley
Administrative Law Judge