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

JUL 15 2014

GEORGIA REAL ESTATE :
 COMMISSION, :
 Petitioner, : DOCKET NO.: OSAH-GREC-SAN-
 : 1454348-60-Howells
 v. :
 :
 AHMAD ABDUR-RASHID, :
 Respondent. :

K. Westray
Kevin Westray, Legal Assistant

INITIAL DECISION

Petitioner, the Georgia Real Estate Commission (“Commission” or “Petitioner”) filed this matter seeking an indefinite suspension of Respondent Ahmad Abdur-Rashid’s real estate salesperson’s license. The hearing was held on July 1, 2014. Petitioner was represented by Alison Spencer, Senior Assistant Attorney General. Ahmad Abdur-Rashid (“Respondent”) failed to appear for the hearing.¹ For the reasons stated below, the Respondent’s real estate salesperson’s license is **SUSPENDED indefinitely**.

Findings of Fact

1.

Respondent is a licensed real estate salesperson (#S309766) in the State of Georgia. Respondent’s real estate salesperson’s license has been on inactive status with the Commission since March, 2012. (Ex. P-1.)

2.

On or about January 27, 2011, the Commission received a request for investigation which alleged that Respondent was engaged in improper advertisement of real properties. (Ex. P-2; Testimony of Vivian Chang.)

3.

During the course of its investigation, an investigator working on behalf of the Commission interviewed Respondent via telephone. At one point, Respondent hung up on the investigator. Respondent did, however, provide the investigator with his address via email. (Testimony of Vivian Chang.)

¹ On May 29, 2014, the Notice of Hearing and Matters Asserted were sent via certified mail to Respondent at 175 Monticello Way, Fayetteville, Georgia 30214. The mail was delivered and signed for by Nadine Nance on June 2, 2014. (See Court File.)

4.

At the conclusion of its investigation, the Commission found that the Respondent engaged in the following activities which violated governing rules and regulations: (1) he advertised eleven properties on his website without first obtaining proper authorization; (2) he failed to include his firm's name and telephone number on an advertisement; (3) he listed a firm on an advertisement with whom he was not affiliated; and, (4) failed to timely notify the Commission of a change of address. (Ex. P-4.)

5.

On or about November 9, 2011, the Commission issued a Citation to Respondent based upon its investigative findings. The Commission ordered Respondent to pay a fine in the total amount of \$400.00 and complete a three hour educational course. This Citation was sent to Respondent by certified and regular mail at his address of record with the Commission.² The certified mail was returned as unclaimed. The regular mail was returned as undeliverable. (Exs. P-4, P-5, P-6; Testimony of Craig Coffee.)

6.

On or about January 27, 2012, the Commission sent notice to Respondent at the 175 Monticello Way, Fayetteville, Georgia address that Respondent provided to Ms. Chang. The notice informed Respondent that the Commission had not received the fine amount imposed upon him by the Citation and if it did not receive the payment by March 1, 2012, it may impose a sanction on his license after notice and an opportunity for a hearing.³ The notice also provided that the sanction could include a suspension or revocation of his license. A copy of the Citation was attached to the notice. (Ex. P-7; Testimony of Craig Coffee.)

7.

The Commission received a registered letter from the Respondent dated February 23, 2012, indicating that "Case number 11C1002 is hereby claimed, registered, and bonded as property of Timothy Levon Locke, Estate." This letter was signed by the Respondent as the General Trustee on behalf of the Timothy Levon Locke Estate.⁴ The case number 11C1002 referenced in the letter from Respondent is the case number on the Citation. Thus, it is clear that Respondent received the January 27, 2012 notice with the Citation attached. (Ex. P-7; Testimony of Craig Coffee.)

² The address of record with the Commission was 3044 E. Clairmont Road, N.E., Atlanta, Georgia 30329. However, during the investigation Respondent provided Ms. Chang with a different address located at 175 Monticello Way, Fayetteville, Georgia 30214.

³ Reference to Respondent's failure to complete the three hour continuing education course required by the Citation was inadvertently not included in the notice. However, it is clearly stated in the Citation which was attached to the notice.

⁴ The letter further directs the Office of the Georgia Real Estate Commissioner to "process the account and send the certified funds to the address above." The address provided is: General Post – Office[,] Post Office Box 14442[,] Atlanta, Georgia Near [,] [30324-9998] [,] United States Minor, Outlying Islands." On two pages of the letter, there is a red fingerprint next to Respondent's signature, with the word "Seal" printed inside of the fingerprint. Other than this bizarre, unintelligible letter, Respondent has not corresponded with the Commission regarding the Citation. (Ex. P-7; Testimony of Craig Coffee.)

8.

On or about June 1, 2013, the Commission once again sent a copy of the Citation to Respondent at the 175 Monticello Way, Fayetteville, Georgia address by certified mail return receipt requested. The green card was signed as received by "Toni Locke." The Commission received the green card on June 5, 2013. (Exs. P-8, P-9; Testimony of Craig Coffee.)

9.

The Commission never received a request for a hearing to dispute the Citation. Nor has Respondent complied with the fine and continuing education required by the Citation. (Testimony of Craig Coffee.)

Conclusions of Law

1.

The Commission seeks to sanction Respondent by suspending his license indefinitely. Therefore, the Commission bears the burden to prove, by a preponderance of the evidence, that Respondent's real estate salesperson's license should be suspended indefinitely. Ga. Comp. R. & Regs. 616-1-2-.07(1), -.21(4).

2.

Upon a finding that a licensee has violated any of the statutes in Title 43, Chapter 40, or any of the rules and regulations promulgated by the Commission, the Commission has the authority and discretion to revoke or suspend a license for a definite or indefinite period, or impose restrictions, among other sanctions. O.C.G.A. § 43-40-25(a).

3.

Georgia Code section 43-40-25.2 provides the Commission with the power to issue Citations as an alternative to sanctions. O.C.G.A. § 43-40-25.2(b)(2). When a licensee does not request a hearing to contest a Citation within 30 days of service of the Citation, it becomes a final order. *Id.* Further, a licensee's "failure to comply with the terms of the final order may be cause for the imposition of a sanction on such person's license, after notice and an opportunity for a hearing." *Id.*

4.

Here, the Commission issued a Citation because it found that Respondent engaged in improper advertisement of real properties and failed to timely notify the Commission of a change of address. After receiving the Citation, Respondent did not request a hearing. Thus, the Citation became a final order. O.C.G.A. § 43-40-25.2(b)(2).

5.

Respondent has not complied with the terms of the final order. Accordingly, the Commission has established cause to impose a sanction on Respondent's license. *Id.*

6.

Georgia Code section 43-40-15(a) provides that "licenses shall be granted only to persons who bear a good reputation for honesty, trustworthiness, integrity, and competence to transact

the business of a licensee in such a manner as to safeguard the interest of the public.” O.C.G.A. § 43-40-15(a). Further, individuals who have obtained their real estate license must continue to conduct themselves in a manner that will protect the public. O.C.G.A. § 43-40-25(b)(25).


7.

Respondent’s failure to comply with the terms of the final order, his failure to provide any reasons for his failure to comply, his bizarre, unintelligible correspondence with the Commission, and his ability to re-activate his license raise concerns that the public may not be safeguarded. For these, reasons, the undersigned concludes that an indefinite suspension is the appropriate sanction.

Decision

For the above and foregoing reasons, Respondent’s real estate salesperson’s license is hereby **SUSPENDED indefinitely**, until such time as he complies with the terms of the final order.

SO ORDERED THIS 14th day of July, 2014.



STEPHANIE M. HOWELLS
Administrative Law Judge