

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

**GEORGIA REAL ESTATE
COMMISSION,**
 Petitioner,

v.

DAUDA SAIBU,
 Respondent.

**Docket No.: 2200206
2200206-OSAH-GREC-SAN-60-Beaudrot**

Agency Reference No.: 21C1402



Devin Hamilton
Devin Hamilton, Legal Assistant

INITIAL DECISION

I. Introduction

Dauda Saibu (“Respondent”) appeals the decision of the Georgia Real Estate Commission (“the Commission”) to revoke his real estate broker’s license.

The hearing in this case was held before the undersigned on March 4, 2022, at the Georgia Office of State Administrative Hearings, 225 Peachtree Street, NE, Atlanta, Georgia 30303. Witnesses at the hearing consisted of: Respondent; Wanda Sorrells, an investigator for the Commission; Dr. Abiola Saibu, Respondent’s spouse; Roxanne M. Brogden, a real estate agent and business associate of Respondent; Mark Walker, a business associate of Respondent; David Imuse, long-time friend and business associate of Respondent; and Michael O’Neill, Esq., real estate attorney and professional acquaintance of Respondent.

At the hearing, Alison S. Spencer, Esq., Senior Assistant Attorney General, appeared for the Commission and William H. Thomas, Esq. appeared for Respondent. All documents tendered were admitted into the record by stipulation of the parties.

For the reasons discussed below, Respondent’s proposed action in revoking Respondent’s real estate license is **AFFIRMED**.

II. Findings of Fact

The facts in this matter are not disputed and are so found:

1. Respondent holds a real estate broker's license (#Q259009) in the State of Georgia. He has held a real estate license in Georgia since February 10, 2003. (Exhibit P-1).
2. From May 1, 2018, through July 17, 2018, Respondent's real estate broker's license was on lapsed status with the Commission. From July 18, 2018, through July 25, 2018, his real estate broker's license was on inactive status with the Commission. From July 26, 2018, through January 31, 2021, Respondent's real estate broker's license was on active status with the Commission. From February 1, 2021, through March 28, 2021, Respondent's real estate broker's license was on inactive status with the Commission. (Exhibit P-1).

3. Since March 29, 2021, Respondent's real estate broker's license has been affiliated with Lenox Realty Atlanta, LLC (#H61909), where he serves as the qualifying broker. (Exhibit P-1).
4. On or about March 2, 2021, Respondent pled guilty and was convicted in the United States District Court for the Northern District of Georgia of the felony criminal offense of Bribery of a Public Official (“the Criminal Case”).¹ (Exhibit P-2).
5. The details of Respondent’s offense and sentence are contained in the “Guilty Plea and Plea Agreement” (“the Plea Agreement”), which was admitted into evidence as part of Exhibit P-2, specifically section P-2B. Respondent was convicted of attempting to bribe an IRS agent in connection with an audit of Respondent’s return and the proposed assessment of a substantial income tax liability against Respondent. It is undisputed that the IRS agent suggested the bribe. It is also undisputed that Respondent took the bait proffered by the IRS and attempted to effectuate the bribe. (Exhibit P-2; Testimony of Respondent).
6. As a result of his plea in the Criminal Case, Respondent was sentenced to four months’ imprisonment in the custody of the Federal Bureau of Prisons, which term of imprisonment was to begin on September 1, 2021. In addition, Respondent was sentenced to three years of supervised release, payment of a fine and assessment in the amount of \$10,100.00, periodic drug testing, submission to a financial audit as required by probation services, and a search of his property. Finally, Respondent was restricted from incurring credit charges or open lines of credit without approval and required to refrain from excessive use of alcohol. (Exhibit P-2B).
7. On or about March 10, 2021, Respondent submitted written notification to the Commission regarding his plea in the Criminal Case. On or about April 16, 2021, he submitted a written request to the Commission for a hearing regarding his plea in the Criminal Case. The Commission received the written request for a hearing on April 29, 2021. (Exhibits P-3 and P-4; Testimony of Ms. Sorrells.)
8. Respondent’s submission of documents and request for a hearing before the Commission occurred within sixty days of the plea in the Criminal Case and was timely in accordance with O.C.G.A. § 43-40-15(i). (Testimony of Ms. Sorrells).
9. At the hearing, Respondent forthrightly acknowledged his responsibility and culpability in the Criminal Case. (Testimony of Respondent).
10. It is undisputed that the Criminal Case is Respondent’s first and only criminal conviction. It is also undisputed that Respondent’s sentence of four months’ incarceration in the Criminal Case was a substantially lighter sentence than the fifteen years permitted under the statute and was significantly lighter than that recommended by the prosecution in the Criminal Case. It is also undisputed that Respondent’s period of incarceration of four months was shortened to two months for good behavior. (Testimony of Respondent).
11. The Commission urges that the uncontested facts demonstrate that Respondent does not bear a good reputation for honesty, trustworthiness, integrity, and competence to transact the

¹ United States of America v. Dauda Saibu, Criminal Action No. 1:20-CR-109-TCB.

business of a real estate salesperson in such a manner as to safeguard the interest of the public as required by the statute. (Testimony of Ms. Sorrells).

12. If Respondent were applying for an initial application for a real estate license, he would not be eligible until two years after his probation or supervised release was completed, i.e., not until 2027. (Testimony of Ms. Sorrells).

13. Respondent is not currently working actively as a real estate broker. The last real estate transaction he closed as a broker was in early 2021. He has no current clients or listings, and no other brokers working with him at Lenox Realty Atlanta, LLC. His current business activities are focused on working as a homebuilder. He and his spouse also share the significant responsibility of caring for their two youngest children, ages five years and eighteen months, respectively. (Testimony of Respondent.)

14. Respondent's character witnesses were consistent in their testimony. They testified that, based on their personal experiences, Respondent's criminal conduct was a complete departure from his normal character. They attested to Respondent's personal integrity and trustworthiness and opined that he possessed a good reputation for trustworthiness and integrity in the community, criminal conviction notwithstanding. (Testimony of Dr. Saibu, Ms. Brogden, Mr. Walker; Mr. Imuse, and Mr. O'Neill.)

III. Conclusions of Law

1. When a contested case is referred to the Office of State Administrative Hearings, the administrative law judge assigned to the case has "all the powers of the ultimate decision maker in the agency with respect to a contested case." O.C.G.A. § 50-13-41(b). The evidentiary hearing is *de novo*, and the administrative law judge "shall make an independent determination on the basis of the competent evidence presented at the hearing." Ga. Comp. R. & Regs. 616-1-2-.21(1).

2. O.C.G.A. § 43-40-15(a) provides that real estate licenses are to be granted only to persons who bear 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.

3. By virtue of O.C.G.A. § 43-40-14, the Commission has the plenary power to revoke, suspend or censure real estate licenses.

4. In considering applications for licensure, O.C.G.A. § 43-40-15(b)(1.1) provides that no person who has a single felony conviction is eligible to become an applicant for a license unless such person has successfully completed all terms and conditions of any sentence imposed for each conviction, and provided further, that at least two years have passed since the individual satisfied all terms and conditions of any sentence imposed for the conviction before making application for licensure.

5. O.C.G.A. § 43-40-15(b)(1.2)(C) provides that a person who has a conviction in a court of competent jurisdiction of this state or any other state, district or territory of the United States, or of a foreign country, is eligible to become an applicant for licensure only if such person presents to the Commission satisfactory proof that the person now bears 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.

6. O.C.G.A. § 43-40-15(i) provides that whenever any licensee is convicted of an offense enumerated in that Code section, the licensee must notify the Commission of the conviction within ten days from the date of the conviction. Such licensee's license may be revoked by the Commission 60 days after the licensee's conviction unless the licensee makes a written request to the Commission for a hearing during that 60-day period.

7. Rule 520-1-.05(5)(a) expands upon this notification requirement and provides that every licensee shall notify the Commission in writing of the final disposition of any administrative, civil, or criminal action filed in any court of competent jurisdiction or any administrative agency whenever that final disposition involves the subject matter of the offenses cited in O.C.G.A. Sections 16-13-111, 43-40-15 or 43-40-25. Such notice of any administrative or civil action must be given to the Commission within ten days of the conclusion of the court or administrative proceedings and shall include a copy of any final order issued.

8. It is undisputed that Respondent has complied with the obligation to notify the Commission of his conviction.

9. It is also undisputed that were Respondent an initial applicant for a real estate license, given the facts as to his conviction and his continuing obligations under his Plea Agreement, his application for licensure would be barred by virtue of O.C.G.A. § 43-40-15(b)(1.1).

10. The Commission urges that the standard that would be applied were Respondent applying initially strongly supports its proposed revocation of Respondent's license in this matter. The Commission also stresses the gravity of the offense to which Respondent pled guilty as justifying its position in this matter and points to Respondent's continuing obligations under the Plea Agreement.

11. The evidence fully supports the Commission's contentions in this matter. Although the Commission is not *required* to revoke Respondent's license, given the gravity and nature of Respondent's crime, and Respondent's ongoing supervision under the Plea Agreement, the Commission would be hard-pressed to justify not doing so. The Commission is certainly not abusing its discretion by treating Respondent similarly to the way it would treat an initial applicant and holding Respondent to the same standard.

12. The evidence shows that Respondent has thus far fully satisfied the requirements of his Plea Agreement. The fact that his incarceration ended early is particularly encouraging. But it is undisputed Respondent is still subject to supervised release and other ongoing obligations under the Plea Agreement.

13. The testimony of Respondent's character witnesses is also encouraging. But at this point, when the Respondent is still subject to supervised release, the Commission can be understandably hesitant to permit Respondent to retain his real estate broker's license. It is simply too soon given


that Respondent is still the subject of monitoring as part of the supervised review required by his Plea Agreement.

14. The difficulty with allowing Respondent to retain his license is exacerbated by the fact that he is the qualifying broker for Lenox Realty Atlanta, LLC (#H61909) and desires to continue in that role. As the qualifying broker, he is not subject to review or supervision by another qualified broker. The case might be different were Respondent seeking to obtain a salesperson's license where he would be subject to review and supervision by an independent qualifying broker. But that is not the case here.

IV. Decision

Based upon the foregoing, the Commission's proposed revocation of Respondent's real estate license is **AFFIRMED**.

SO ORDERED, this 29th day of March, 2022.


Charles R. Beaudrot
Administrative Law Judge

