

FILED November 4, 2021 (Date)
JREL
Board / Commission
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Signature, Executive Officer

BEFORE THE REAL ESTATE COMMISSION
OF THE STATE OF IOWA

IN RE: CASE NO. 21-274

DIA NO. 22PLBREC0002

JEROME T. BOBO
Salesperson (S57408000)
SUSPENDED

3519 SW 29th Street
Des Moines, Iowa 50321,

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER**

RESPONDENT

On September 13, 2021, the Iowa Real Estate Commission (Commission) sent a letter to Jerome T. Bobo (Respondent) notifying him that the Commission had suspended his real estate salesperson license, based on his felony criminal conviction.

A prehearing conference was held on October 1, 2021. The hearing was held in-person on October 8, 2021 at 9:30 a.m. Assistant Attorney General John Lundquist represented the state of Iowa. The Respondent was not present. The following Commission members presided at the hearing: Dennis Stolk, Chairperson, Broker Member; Jim Clingman, Vice-Chairperson, Broker Member; Helen Kimes, Broker Member; Janet DeMott, Salesperson Member; Dakota Reed, Broker Member; and Wendy Carminhato, Public Member. Administrative Law Judge Kathleen O'Neill assisted the Commission in conducting the hearing. A certified court reporter recorded the proceedings. The hearing was closed to the public, pursuant to Iowa Code section 272C.15(5) (2021).

After hearing the testimony and examining the exhibits, the Commission convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate its decision. The Commission instructed the administrative law judge to draft Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

THE RECORD

The record includes the state's Prehearing Conference Report, testimony of investigator Renee Paulsen, and State's Exhibits 1-14. (See Exhibit Index for description).

FINDINGS OF FACT

1. On April 25, 2006, the Commission issued the Respondent real estate salesperson license number 557408000. The license was in full force and effect until December 31, 2023. (Ex. 1, 2).
2. On November 22, 2020, the Respondent was charged with two counts of domestic abuse assault in violation of Iowa Code sections 708.2A(2)(a) and 708.1(2)(a), a simple misdemeanor. On December 11, 2020, the Iowa District Court for Polk County accepted the Respondent's plea of guilty and the Respondent was placed on probation. As a part of the probation, the Respondent was ordered to attend and successfully complete the Iowa Domestic Abuse Program. The record contains no evidence of participation or completion of this program. (Ex. 10, 11).
3. On March 23, 2021, the Respondent was charged with (1) burglary in the first degree – a sexually motivated offense, (2) sexual abuse in the third degree, (3) assault with intent to commit sexual abuse causing bodily injury, and (4) domestic abuse assault enhanced, third of subsequent offense. (Ex. 5). The police report indicated that the Respondent broke in the back door of the victim's residence while she was sleeping and attempted to assault her. (Ex. 4, 5).
4. On July 23, 2021, the Iowa District Court for Polk County accepted the Respondent's plea of guilty to the charges of Attempted Burglary in the First Degree in violation of Iowa Code sections 713.2 and 713.4, a class C felony, and Assault Causing Bodily Injury, in violation of Iowa Code sections 708.1(2)(a), 708.2(2), a serious misdemeanor. (Ex. 6, 7).
5. On August 31, 2021, the Court sentenced the Respondent to a suspended ten-year prison term and placed him on probation for five years. As a result, the Respondent's probation was revoked for the November 22, 2020 incident. (Ex. 8, 9).
6. On September 9, 2021, the Respondent notified investigator Renee Paulsen of the proceedings in the August 31, 2021 conviction. (Ex. 3, 12, Paulsen testimony).
7. Iowa Code section 543B.29(f)(1) instructs,

Notification of a conviction for an offense which is classified as a felony shall result in the immediate suspension of a license pending the outcome

of a hearing conducted pursuant to section 543B.35 to determine the nature of the disciplinary action, if any, the commission will impose on the licensee.

8. On September 13, 2021, the Board filed an Emergency Order to Suspend License. Attempted burglary in the first degree constitutes a felony criminal offense. (Ex. 1).

CONCLUSIONS OF LAW

I. Failure To Appear

Board rules provides that service of the notice of hearing may be made by personal service as in civil actions; by restricted certified mail, return receipt requested; or by acceptance of service by the licensee or the licensee's duly authorized legal representative.¹ In this case, Respondent was properly served by personal service on September 13, 2021.

If a party fails to appear after proper service of notice, the presiding officer may enter a default decision or may proceed with the hearing and enter a decision in the absence of the party.² After being personally served notice, the Respondent failed to appear, and the Commission properly elected to proceed with the hearing in his absence.

Criminal offense

Iowa law provides that a person's conviction of a crime may be grounds for the denial, revocation, or suspension of a license only if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession and the appropriate licensing board, agency, or department does not grant an exception.³ A criminal offense directly relates to the practice of a profession if "the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession" or "the circumstances under which an offense was committed are circumstances customary to a licensed profession."⁴

The preponderance of the evidence established that the Respondent entered a guilty plea and was convicted of the charges of Attempted Burglary in the First Degree in

¹ 193 Iowa Administrative Code (IAC) 7.6(2).

² 193 IAC 7.27(1).

³ See Iowa Code (ICA) § 272C.15(1); see also § 543B.29(1)(f).

⁴ ICA § 272C.1(8).

violation of Iowa Code sections 713.2, 713.4, a class C felony, and Assault Causing Bodily Injury, in violation of Iowa Code sections 708.1(2)(a), 708.2(2), a serious misdemeanor. Conviction of an offense that is classified as a felony is grounds for revocation or suspension.⁵

The Commission finds that burglary and assault are criminal offenses that directly relate to the duties and responsibilities of the real estate profession. Pursuant to an agreement with clients, real estate professionals are given access to homes in order to prepare and present the home to potential buyers, in accordance with the wishes and invitation of the client. It is a customary practice for a real estate professional to have access to homes that are for sale per contract with other real estate professionals. Thus, a real estate professional has access to homes in which he or she is not the listing agent. People trust that a real estate professional will not enter a home outside the conduct of professional circumstances or stay beyond the invitation offered. A real estate professional interacts with clients on a daily basis, with the expectation that the clients feel safe.

The Respondent entered the victim's home without permission and stayed beyond any invitation offered to him. He abused his privilege to be in the home of a former girlfriend and while there, assaulted her in a manner that caused physical injury. These violations directly reflect on the Respondent's duties as a real estate professional. The Respondent's record demonstrates that he is unable to interact with clients and maintain a safe relationship, or be trusted with the privilege of accessing the homes of clients.

Sanction

In determining whether the Commission should discipline the Respondent for his criminal conduct relating to the practice of the real estate profession, the Commission shall consider:

- (a) the nature and seriousness of the criminal offenses;
- (b) the time elapsed since the commission of the crime;
- (c) the circumstances relative to the offense, including any aggravating and mitigating circumstances;
- (d) the age of the Respondent at the time the offense was committed;
- (e) any treatment or restitution performed by the Respondent;

⁵ ICA § 543B.29 (1)(f), § 543B.15(3).

(f) and, all other relevant evidence of the Respondent's rehabilitation and present fitness to practice.⁶

On November 22, 2020, the Respondent was charged with two counts of domestic abuse assault and pleaded guilty. On March 23, 2021, the Respondent was charged with (1) burglary in the first degree – a sexually motivated offense, (2) sexual abuse in the third degree, (3) assault with intent to commit sexual abuse causing bodily injury, and (4) domestic abuse assault enhanced, third of subsequent offense. The Respondent pleaded guilty to the lesser included charges of Attempted Burglary in the First Degree and Assault Causing Bodily Injury. These incidents occurred only four months apart and show a distinct pattern of behavior. There is no evidence in the record the Respondent has undergone any treatment or demonstrated rehabilitation. There is further no evidence of mitigating circumstances.

After discussion and examination of the record, the Commission finds that revocation of the Respondent's real estate license in accordance with Iowa Code section 272C.15(1) is the proper sanction. The public should be entitled to protection in their homes.

Following the revocation or surrender of a broker or salesperson license, an applicant for reinstatement must, as a condition of reinstatement, start over as an original applicant for a salesperson license, regardless of the type of license the applicant previously held. The applicant shall be required to satisfy all preconditions for licensure as a salesperson.⁷

DECISION AND ORDER

IT IS THEREFORE ORDERED that Salesperson License S57408000, issued to Respondent Jerome T. Bobo, is hereby REVOKED, effectively immediately upon service of this Decision and Order.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 193 IAC 7.41, that Respondent shall pay \$75.00 within thirty (30) days of receipt of this decision for fees associated with conducting the disciplinary hearing. If the Commission issues a separate order assessing additional costs or expenses, the Respondent shall promptly comply with the terms of that order.

⁶ ICA § 272C.15 (4), § 543B.29(1)(f)((2).

⁷ 193E IAC 18.15(3).

Dated this 4th day of November, 2021.


Dennis Stolk, Chairperson *Vice Chair.*
Iowa Real Estate Commission

cc: Respondent – Jerome T. Bobo [CERTIFIED]
Assistant Attorney General - John Lundquist [LOCAL]

Judicial review of the commission's action may be sought in accordance with the Iowa administrative procedure act, from and after the date of the commission's order. If a party does not file a timely application for rehearing, a judicial review petition must be filed with the district court within 30 days after the issuance of the commission's final decision. 193 IAC 7.37.