



Department of Professional and Financial Regulation - Office of Licensing & Registration
Maine Real Estate Commission

From the Director's Desk

Carol J. Leighton

Advertising - what are the issues?

In the past few months the Commission staff has responded to a significant increase in the number of inquiries and complaints regarding improper or illegal real estate brokerage advertisements. What are the issues? The types of advertising problems reported are in three areas: company trade name and contact information not included or not prominently displayed; promotion of brokerage services by a "team," and deceptive inducements. What are the rules and tips to comply with the rules?

The advertising standards are found in Chapter 410-Section 1 (1-7) of the Commission rules. The rules are posted on the Commission's homepage: www.maineprofessionalreg.org.

The advertising rule provides the following:

1. Defines the term "advertising."
2. Requires the real estate company tradename to be prominently displayed in all advertisements along with the contact information where the public may reach the real estate company by phone or in person;
3. Places a duty on the designated broker* to supervise advertising by affiliated licensees;
4. Permits the name and contact information of an affiliated licensee to be included in the advertisement;
5. Requires the owner's written permission to advertise real estate for sale;
6. Prohibits a real estate company from advertising another company's exclusive listings without the prior written consent of the designated broker of the listing company;
7. Requires advertisements to be free from deception; and
8. Prohibits an advertisement from misrepresenting the condition of the real estate, terms of the sale or purchase, real estate company policies or real estate brokerage services.

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**the designated broker may designate another person to assist in administering the rules; however, the designated broker does not relinquish overall responsibility for compliance with the rules.*

You Say Real Estate Appraisal, I Say "Broker Price Opinion (BPO)" . . .

Does it matter what it's called? "Appraisal" is defined by Title 32, c. 124, the Real Estate Appraisal Licensing and Certification Act ("Appraisal Law") as "an analysis, opinion or conclusion prepared by a real estate appraiser related to the nature, quality, value or utility of specified interests, in or aspects of, identified real property. The Appraisal Law also provides that it is unlawful for a person to prepare, **for a fee or other valuable consideration, an appraisal** (emphasis added) or appraisal report relating to real estate or real property in this State without first obtaining a real estate appraisal license or as exempted by the Appraisal Licensing Act.

So, the answer is "no" it doesn't matter what it's called if the service provided meets the definition of "appraisal" and the person who prepares the "analysis, opinion or conclusion" is doing so for a fee or other valuable consideration.

As noted above a real estate appraiser license is required to prepare an appraisal unless the person preparing the appraisal is exempted by the Appraisal Law. One of the exemptions under the Act permits real estate brokers and associate brokers to prepare an appraisal, for a fee, for purposes other than a federally related transaction** and requires that the following language, in bold print, appears in a prominent location on the appraisal report:

"This opinion or appraisal was prepared solely for the client, for the purpose and function stated in this report and is not intended for subsequent use. It was not prepared by a licensed or certified appraiser and may not comply with the appraisal standards of the uniform standards of professional appraisal practice."

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**32 MRSA §14002 (9) *Federally related transaction.*

"Federally related transaction" means federally related transaction as defined in Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101-73 or in the federal Office of Management and Budget Circular A-129, as either is amended, or as the rules referred to in either are amended.

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Director's Desk (Continued from page 1)

Tips for complying with the advertising standards listed on Page 1:

The designated broker should adopt a written policy for affiliated licensees to follow to ensure compliance with the advertising rule. It is important to remember that an advertisement to sell or purchase real estate or to offer brokerage services may only be made by or on behalf of the real estate company. Affiliated licensees may not offer to "list" or "sell" or "provide brokerage services" on their own behalf or as a "team." Only the real estate company may legally contract with a buyer or seller to provide real estate brokerage services.

"Teams" - A designated broker may permit affiliated licensees to offer brokerage services as a "team." The "team," however, is not a "mini- real estate company" within a company. The "team" name may be included in the advertisement but the company trade name must be prominently displayed and the company contact information must be included. Webster defines "prominent" as "immediately noticeable" or "conspicuous."

Websites or other advertising formats either created by or paid for by affiliated licensees to promote the sale of real estate or brokerage services are required to comply with the rule - who pays for the advertising does not change the requirement to comply with the rule or that the "website" may only promote brokerage activity on behalf of the real estate company;

Abbreviations of the company trade name are not permitted, i.e. "C-21" is not a substitute for "Century 21," the "C Leighton RE Company" is not a substitute for the "Carol Leighton Real Estate Company", or the "Greatest Homes in the State of Maine Company" is not a substitute for "GHSMC;"

"Inducements" - To avoid an allegation of misrepresentation an advertisement offering an inducement to list or buy real estate must include all of the requirements to qualify for the inducement including limitations or time deadlines.

Examples of "problem" inducement offerings follow:

\$500 cash at closing when you list with us! - That's ok if the company really intends to offer \$500 cash to all sellers who list with the company as long as the company remains licensed. If that's not what the company intends then the inducement must include the limitations, i.e. "offer available to sellers who list with our company and close within 90 days."

List with the "A-Team" and win a trip to Florida! - Is this intended to be an open-ended offer, as noted above? In addition:

1. The "A-Team" is not legally permitted to offer to list or list real estate for sale.
2. How does the seller qualify to win the trip?
2. Is the trip to Florida available at a time and location of the seller's choice?
3. Does the trip include all travel related costs?
4. Is this offer available to currently listed sellers or only prospective sellers?

Buyers Wanted - when you buy from us, we will pay all of your closing costs!

Again, is this intended to be an open-ended offer? In addition:

1. Is this offer available to buyer clients only or any buyer?
2. Is this offer limited to properties listed with "us?"
3. Who gets to decide what is or is not a "closing cost?"

Questions about an inducement you may be thinking of offering? To avoid some of the examples listed above, you may want to draft the inducement offer and ask someone to review the offer for any possible misleading statements. The Commission staff may be another resource.

Advertising is the lifeblood of real estate brokerage. The rule governing brokerage advertising practices does not limit creativity or require advertisement to be a "one size fits all" format. The rules set minimum standards for all to follow. Compliance with the rule is the threshold for licensees to build on to create imaginative and effective advertisements that benefit their clients' interests and serve to promote the licensee.

For additional information on advertising issues, please check the "FAQ" section on the Commission's homepage - www.maineprofessionalreg.org

Current Cases

Karen L. Bivins, Deputy Director

On June 15, 2006 the members of the Commission ratified their decisions reached after hearings involving the following licensees:

1. Karen A. Schlegel of Kennebunkport, Maine. Schlegel is a broker who failed to comply with the continuing education requirement for renewal of her license.

As part of her license renewal application, Schlegel certified that she had completed 15 hours of approved continuing education. After an audit, it was discovered that she not completed the required core course before renewal of her license.

Schlegel was found in violation of 32 M.R.S.A. §§ 13067(1)(A), (D) and (F). She was ordered to pay a fine of \$600.00.

2. Ronald A. Tremblay of Auburn, Maine. Tremblay is an inactive associate broker who failed to report a criminal conviction in a timely manner. In August 2005 Tremblay notified the Director that he had been convicted of "Operating Under the Influence" in May 2004.

Tremblay was found in violation of 32 M.R.S.A. § 13195. He was ordered to pay a fine of \$500.00.

On June 15, 2006 the members of the Commission accepted the following consent agreements entered into by the Director and various licensees:

1. Deja A. Lett of Portland, Maine. Lett is an associate broker who failed to disclose a criminal conviction. She stated on her sales agent license application in 2003 that she had not been convicted of a crime. In May 2006 on her associate broker license application, Lett disclosed a conviction for "Driving to Endanger" in January 1994.

Lett was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191. She agreed to pay a fine of \$200.00.

2. Robert Q. Libby of Oxford, Maine. Libby is a designated broker who failed to comply with the continuing education requirement for renewal of his license.

As part of his license renewal application, Libby certified that he had completed 15 hours of approved continuing education. After an audit, it was discovered that he had not completed the required core course before renewal of his license.

Libby was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(3), and Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules. He agreed to pay a fine of \$600.00, and to submit documentation of his completion of the core course.

3. William W. Mercier of Hallowell, Maine. Mercier is a sales agent who failed to disclose a criminal conviction.

He stated on his sales agent license application that he had not been convicted of a crime. The Director learned that Mercier had been convicted of "Disorderly Conduct (Misdemeanor Unknown Class)" in December 1982. After being contacted by the Director, Mercier submitted a written amendment to his application.

Mercier was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191. He agreed to pay a fine of \$200.00.

4. Richard L. Perry, Jr. of Prospect Harbor, Maine. Perry is an associate broker who failed to report a criminal conviction in a timely manner. In March 2006 the Director learned that Perry had been convicted of "Operating Under the Influence (Charge Class D)" in June 2002.

Perry was found in violation of 32 M.R.S.A. § 13195. He agreed to pay a fine of \$300.00.

5. Clayburn L. Ryder of Windham, Maine. Ryder is a broker who failed to obtain the proper consent to act as a dual agent and failed to present Form #2.

Ryder listed property for sale on behalf of his agency and obtained the written consent of his client to act as a dual agent, which was the policy of his agency. He listed the property again when the first listing expired. Changes were made to the original listing agreement, but not all appropriate changes were made to the price or the date of the agreement. Ryder did not obtain the written consent of the seller to act as a dual agent at the time of the second listing. Subsequently two interested parties were shown the property by Ryder. He did not present either party with Form #2 at his first meeting with each of them.

Ryder was found in violation of 32 M.R.S.A. §§ 13275(1) and 13279, and Chapter 330 Sections 7 and 9(B) of the Maine Real Estate Commission Rules. He agreed to pay a fine of \$800.00.

6. Timothy F. Worden of Auburn, Maine. Worden is a designated broker who allowed advertising to appear that was not in compliance with Commission requirements. One advertisement claimed that his agency sold a house every 2 hours. Two other advertisements were not in the trade name of the agency as licensed with the Commission.

Worden was found in violation of 32 M.R.S.A. § 13067(1)(F) and Chapter 330 Sections 1(A) and (B) of the Maine Real Estate Commission Rules. He agreed to pay a fine of \$1,000.00 and to adopt an advertising policy in compliance with Commission requirements.

On July 20, 2006 the members of the Commission ratified their decisions reached after hearings involving the following licensees:

1. Darren C. McMullen of Saco, Maine. McMullen

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is an associate broker who provided false information on his real estate license applications.

In May 2002 McMullen submitted to the Commission a sales agent license application on which he stated that he received a high school diploma in 1984. A sales agent license was issued to McMullen. In May 2005 he submitted to the Commission an associate broker license application on which he again stated that he received a high school diploma in 1984. An associate broker license was issued to McMullen.

In April 2006 the Commission received information that McMullen had not graduated from high school and had falsified his applications. During the hearing it was determined that McMullen received his GED in June 2006.

McMullen was found in violation of 32 M.R.S.A. §§ 13067(1)(A) and (D). The Commission ordered the suspension of his associate broker license for 90 days and ordered him to pay a fine of \$3,000.00.

2. Felisa D. Ricks of Gray, Maine. Ricks is an associate broker who transferred money from an agency trust account to other agency operating accounts and for her own use.

Ricks was an associate broker affiliated with an agency for which she also served as bookkeeper. Over a period of time, she withdrew from the agency trust account \$2,506.50 directly for her own personal use, and transferred at least \$75,314.02 from the trust account into other agency operating accounts and then used those funds for her own personal use.

The Commission ordered the immediate revocation of Ricks' associate broker license and ordered her to pay a fine of \$4,000.00.

On July 20, 2006 the members of the Commission accepted the following consent agreements entered into by the Director and various licensees:

1. Kent M. Lawson of Blue Hill, Maine. Lawson is a sales agent who failed to disclose a criminal conviction. He stated on his sales agent license application that he had convicted of operating under the influence in 1988. The Director learned that Lawson also had been convicted of "Theft (Misdemeanor Unknown Class)" in October 1981. After being contacted by the Director, Lawson submitted a written amendment to his application.

Lawson was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191. He agreed to pay a fine of \$200.00.

2. Janice E. Lewis of Brunswick, Maine. Lewis is a broker who acted improperly in a transaction involving an auction. In July 2005 an auctioneer hired Lewis to hold the earnest money and to prepare the purchase and sale agreement for an auction of real estate. Lewis modified a preprinted form used by her agency to obtain the consent of

a client agreeing to disclosed dual agency. She changed the form to indicate it was a "transaction broker consent agreement" and that the agency did not represent any client. She also crossed out the text of the form which stated that the agency has a policy allowing dual agency along with the four limitations to the practice. She presented the form to the sellers of the property and asked them to sign it. The sellers signed the form with the inclusion of a statement that said they were agreeing to disclosed dual agency.

At the auction, Lewis presented to the successful bidder a lead paint disclosure form but did not provide any other written property disclosure information as required by the Maine Real Estate Commission Rules.

Lewis was found in violation of two counts of 32 M.R.S.A. § 13067(1)(H). She agreed to pay a fine of \$1,000.00.

3. Eileen McMorro-Hallock of Northeast Harbor, Maine. McMorro-Hallock is an associate broker who failed to comply with the continuing education requirement for renewal of her license.

As part of her license renewal application, McMorro-Hallock certified that she had completed 15 hours of approved continuing education. After an audit, it was discovered that she not completed the required core course before renewal of her license.

McMorro-Hallock was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(3), and Chapter 370 Section 10 of the Maine Real Estate Commission Rules. She agreed to pay a fine of \$500.00.

4. Lorri J. Obert of Skowhegan, Maine. Obert is a sales agent who failed to disclose a criminal conviction. She stated on her sales agent license application that she had not been convicted of any crime. The Director learned that Obert had been convicted of "Theft by Unauthorized Taking or Transfer (Charge Class E)" in March 1989. After being contacted by the Director, Obert submitted a written amendment to her application.

Obert was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191. She agreed to pay a fine of \$200.00.

On August 30, 2006 the members of the Commission ratified their decisions reached after hearings involving the following licensees:

1. Dani L. O'Halloran of Bangor, Maine. O'Halloran is an associate broker who failed to comply with the continuing education requirement for renewal of her license.

As part of her license renewal application, O'Halloran certified that she had completed 15 clock hours of approved continuing education. After an audit, it was discovered that she had completed 12 hours before renewal. O'Halloran later submitted 3 hours completed after she re-

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sponded to the audit.

O'Halloran was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). She was ordered to pay a fine of \$100.00.

2. Catherine L. Pierce of Kennebunk, Maine. Pierce is a broker who failed to comply with the continuing education requirement for renewal of her license.

As part of her license renewal application, Pierce certified that she had completed 15 clock hours of approved continuing education. After an audit, it was discovered that she had not completed the required core course. Pierce completed the core course shortly after responding to the audit.

Pierce was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1) and Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules. She was ordered to pay a fine of \$600.00.

3. Kristina L. Savard of Bangor, Maine. Savard was an associate broker who failed to respond to a continuing education audit.

As part of her license renewal application, Savard certified that she had completed 15 clock hours of approved continuing education. Her name was selected for an audit and she was sent two separate notices. Savard did not respond to either notice.

Savard was found in violation of 32 M.R.S.A. § 13067(1)(L). The Commission ordered the immediate revocation of Savard's license.

4. Margo H. Stanley of Southwest Harbor, Maine. Stanley was a designated broker who failed to disclose pertinent information about a property.

Stanley listed for sale land that belonged to her son. After the property was placed under contract by a buyer, a soils test was conducted and failed to find suitable soils for the installation of a septic system. The sales contract was terminated. Subsequently two more soils tests were conducted and both test failed. During one of the tests, Stanley was informed that a system might be possible if installed on an abutting property and that an easement from that property owner would be necessary.

A second buyer placed the property under contract. Stanley did not inform the buyer or the buyer's broker that 3 soils tests had been conducted and failed, or that a septic system might be possible on the abutting property after obtaining an easement. The buyer did not learn of the failed tests or the need for an easement from the abutter until after the sale closed.

Stanley was found in violation of 32 M.R.S.A. §§ 13067(1)(A) and (D). The Commission ordered the immediate revocation of Stanley's license.

On August 30, 2006 the members of the Commission accepted the following consent agreements entered

into by the Director and various licensees:

1. Linda C. Bailey of Bangor, Maine. Bailey is a broker who failed to protect the interests of her clients in a transaction.

Bailey represented the sellers as the listing agent of a residential property which was placed under contract by buyers who were represented by a licensee from another company. The parties agreed that the sellers would provide \$800.00 to be held in escrow should the oil tank need to be replaced within a year of the closing. The sellers issued a check at closing. Bailey gave the check to the buyer broker to hold in escrow without obtaining a written agreement concerning the conditions under which the money would be disbursed.

Subsequently, the sellers asked Bailey several times to provide a copy of the written escrow agreement. Bailey was informed by the buyer broker that the money had been released to the buyers for replacement of the oil tank. At the request of the sellers, Bailey asked for documentation concerning replacement of the tank. The buyers produced estimates only, and it was later discovered that the tank had not been replaced.

Bailey was found in violation of 32 M.R.S.A. § 13067(1)(G). She agreed to pay a fine of \$900.00.

2. Eric F. Flynn of Portland, Maine. Flynn is an associate broker who failed to comply with the continuing education requirement for renewal of his license.

As part of his license renewal application, Flynn certified that he had completed 15 clock hours of approved continuing education. After an audit, it was discovered that he had completed 12 hours before renewal and completed the required core course after renewal.

Flynn was found in violation of 32 M.R.S.A. §§ 13067(1)(A), (F) and 13197(1). He agreed to pay a fine of \$700.00.

3. Linda S. Fraser of Rangeley, Maine. Fraser is a designated broker who failed to comply with the continuing education requirement for renewal of her license.

As part of her license renewal application, Fraser certified that she had completed 15 clock hours of approved continuing education. After an audit, it was discovered that Fraser completed the required core course after renewal.

Fraser was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(3), and Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules. She agreed to pay a fine of \$500.00.

4. James M. Hanscom of Windham, Maine. Hanscom is an associate broker who failed to comply with the continuing education requirement for renewal of his license.

As part of his license renewal application, Hanscom certified that he had completed 15 clock hours of approved continuing education. After an audit, it was discovered that

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he had not completed the required core course.

Hanscom was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(3), and Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules. He agreed to pay a fine of \$500.00 and to complete the core course.

5. Eugenia Kovacs of York, Maine. Kovacs is an associate broker who failed to comply with the continuing education requirement for renewal of her license.

As part of her license renewal application, Kovacs certified that she had completed 15 clock hours of approved continuing education. After an audit, it was discovered that she had not completed the required core course.

Kovacs was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(3), and Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules. She agreed to pay a fine of \$500.00 and to complete the core course.

6. Adam R. McGoon of Sanford, Maine. McGoon is a sales agent who failed to disclose a criminal conviction. He stated on his sales agent license application that he had been convicted of "Operating After Suspension" in 1997 and 1999, "Possession of Marijuana" in 2001, and "False Plates" in July 2005. The Director learned that McGoon had been convicted of "Theft by Unauthorized Taking or Transfer (Charge Class E)" in 1994 and "Criminal Simulation (Charge Class E)" in 1998. After being contacted by the Director, McGoon submitted a written amendment to his application.

McGoon was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191. He agreed to pay a fine of \$600.00.

7. Alden R. Pelletier of Sanford, Maine. Pelletier is an associate broker who failed to comply with the continuing education requirement for renewal of his license.

As part of his license renewal application, Pelletier certified that he had completed 15 clock hours of approved continuing education. After an audit, it was discovered that he had completed 12 hours of education.

Pelletier was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). He agreed to pay a fine of \$700.00 and to complete 3 clock hours of approved education.

8. Edward A. Roberts of Portland, Maine. Roberts is a sales agent who failed to disclose a criminal conviction. He stated on his sales agent license application that he had been convicted of "Operating Under the Influence" in 1998 or 1999. The Director learned that Roberts had been convicted of "Disorderly Conduct (Charge Class E)" in 1982. After being contacted by the Director, Roberts submitted a written amendment to his application.

Roberts was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191. He agreed to pay a fine of \$500.00.

9. Joseph S. Stickney of Saco, Maine. Stickney is

a designated broker who failed to comply with the continuing education requirement for renewal of his license.

As part of his license renewal application, Stickney certified that he had completed 15 clock hours of approved continuing education. After an audit, it was discovered that he had not completed the required core course.

Stickney was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(3), and Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules. He agreed to pay a fine of \$800.00 and to complete the core course.

10. Matthew G. Tardie of Bangor, Maine. Tardie is a sales agent who failed to disclose a criminal conviction. He stated on his sales agent license application that he had not been convicted by any court of any offense. The Director learned that Tardie had been convicted of "Furnishing Liquor to a Minor (Charge Class E)" in 1984. After being contacted by the Director, Tardie submitted a written amendment to his application.

Tardie was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191. He agreed to pay a fine of \$200.00.

11. Lawrence F. Young of Brewer, Maine. Young is a sales agent who failed to disclose a criminal conviction. He stated on his sales agent license application in 2004 that he had not been convicted by any court of any crime. In 2006 when he submitted his associate broker license application, Young disclosed that he had been convicted of "Operating Under the Influence" in 1971, 1981, and the "late 1980's."

Young was found in violation of 32 M.R.S.A. § 13067(1)(H). He agreed to pay a fine of \$600.00.

On September 21, 2006 the members of the Commission accepted the following consent agreements entered into by the Director and various licensees:

1. Daniel Brewer of Caribou, Maine. Brewer is a broker who failed to act properly as a dual agent.

Brewer represented the seller as the listing agent of a residential property. The policy of his agency was to act as appointed agents and disclosed dual agents. The listing agreement Brewer used included sections for the seller to consent to both practices. The seller agreed to have Brewer be her appointed agent but the dual agent section of the agreement was not completed. Subsequently, Brewer agreed to act as a buyer broker for buyers who also agreed in writing to disclosed dual agency.

Brewer showed his buyer clients the property owned by his seller client. At some point when the buyers wanted to make an offer, Brewer suggested offering a price that was below the listing price. The clients then entered into an agreement for the purchase of the seller's property. Brewer indicated on their agreement that he was representing both of the parties, although he did not have written con-

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sent of the seller to act as a dual agent.

Brewer was found in violation of 32 M.R.S.A. §§ 13067(1)(G) and (H). He agreed to pay a fine of \$1,800.00.

2. Peter W. Drinkwater of Ellsworth, Maine. Drinkwater is a sales agent who failed to keep his designated broker informed of his advertising activities.

Drinkwater is affiliated to an agency branch office in Ellsworth. He also owns and operates a store in Winter Harbor. At some point, he attached to his store's building an agency sign which included the telephone numbers for the store and the Ellsworth agency branch office. In addition, a brochure published by the Schoodic Area Chamber of Commerce included a listing for an agency branch office in Winter Harbor. Drinkwater's agency did not have a branch office licensed in Winter Harbor. Drinkwater's designated broker was not aware of and did not give permission for the posting of a sign in Winter Harbor or the inclusion of information about a branch office in the brochure.

Drinkwater was found in violation of 32 M.R.S.A. § 13067(1)(F) and Chapter 330 Section 14 of the Maine Real Estate Commission Rules. He agreed to pay a fine of \$800.00, to remove the sign, and to cease promoting the location as a branch office.

3. William W. Mercier of Gardiner, Maine. Mercier is a sales agent who failed to comply with an approved consent agreement. On June 15, 2006 the Commission accepted a consent agreement between the Director and Mercier in which he agreed to pay a fine of \$200.00 by a specific date. He did not pay the fine and subsequently requested that he be granted more time for payment, stating that he did not wish to hold a real estate license.

Mercier agreed to the immediate revocation of his license.

4. Shirley Mclver of Bridgton, Maine. Mclver is a broker who certified on her license renewal application that she had complied with the continuing education requirement for renewal. The application stated that if the applicant renewed after June 30, 2006 then 21 hours of education was required. Mclver renewed her license on July 10, 2006. After an audit, it was discovered that Mclver had completed 17 hours of education.

Mclver was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). She agreed to pay a fine of \$600.00 and to complete 4 hours of education.

5. William J. Van Twisk of Brunswick, Maine. Van Twisk is an associate broker who failed to comply with the continuing education requirement for renewal.

As part of his license renewal application, Van Twisk certified that he had completed 15 clock hours of approved continuing education. After an audit, it was discovered that he had not completed the required core course.

Van Twisk was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1), and Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules. He agreed to pay a fine of \$500.00 and to complete the core course.

6. Van D. Wilkerson of Falmouth, Maine. Wilkerson is an associate broker who failed to keep his designated broker informed of his advertising activities.

Wilkerson purchased a website that he described as a boilerplate site that can be customized to some extent. One of the pages offered a "discount for referrals" which Wilkerson used. The offer was to members of the public for a reduced commission on a future transaction for referring others to Wilkerson for brokerage services. He also mailed promotional letters with a similar offer to pay for referrals of business. Wilkerson's designated broker was not aware of his offer to pay compensation to unlicensed persons for referrals.

Wilkerson was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and (J), and Chapter 410 Section 3 of the Maine Real Estate Commission Rules. He agreed to pay a fine of \$900.00.

On October 19, 2006 the members of the Commission accepted the following consent agreements entered into by the Director and various licensees:

1. Dorothy J. Duddy of Bethel, Maine. Duddy is a broker who failed to comply with the continuing education requirement for renewal.

As part of her license renewal application, Duddy certified that she had completed 21 clock hours of approved continuing education. After an audit, it was discovered that she had not completed the required core course.

Duddy was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(3), and Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules. She agreed to pay a fine of \$500.00 and to complete the core course.

2. Karin Gwozdz of Lisbon, Maine. Gwozdz is a broker who failed to report a criminal conviction in a timely manner. In June 2006 Gwozdz notified the Director that she had been convicted of "Operating Under the Influence" in September 2004.

Gwozdz was found in violation of 32 M.R.S.A. § 13195. She agreed to pay a fine of \$200.00.

3. Sherri-Lynn B. Hanson of Searsport, Maine. Hanson is a designated broker who failed to have proper procedures in place for the practice of dual agency.

Hanson had an agency policy allowing disclosed dual agency but not appointed agency. Two licensees affiliated with her company listed for sale a property and the seller agreed to disclosed dual agency. Subsequently, Han-

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Current Cases (continued)

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son and her husband made various offers to purchase the property, one of which was eventually accepted. The various offers were prepared with inconsistent references to the roles of the licensees involved, some of which indicated that Hanson and the two listing agents were disclosed dual agents as well as seller agents and buyer agent. The offers from the Hansons did not consistently indicate that Hanson and her husband are real estate licensees. The transaction demonstrated that Hanson and the agency licensees did not fully understand the procedures and requirements to practice dual agency.

Hanson was found in violation of 32 M.R.S.A. § 13067(1)(F); Chapter 320 Section 1(A)(1) and Chapter 330 Section 2 of the Maine Real Estate Commission Rules in effect at the time. She agreed to pay a fine of \$1,500.00 and to complete the designated broker course.

4. Robert W. Wright of Machias, Maine. Wright is a designated broker who failed to comply with the continuing education requirement for renewal.

As part of his license renewal application, Wright certified that he had completed 15 clock hours of approved continuing education. After an audit, it was discovered that he had completed 9 credit hours after the renewal of his license.

Wright was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). He agreed to pay a fine of \$500.00.

On November 16, 2006 the members of the Commission ratified their decisions reached after hearings involving the following licensees:

1. Gregory B. Roy of Richmond, Maine. Roy is an associate broker who acted improperly in his advertising efforts.

At all times pertinent, Roy was a sales agent who had been affiliated with several different agencies. While affiliated with one agency, he used business cards with contact information for an agency to which he was no longer affiliated. He crossed out part of the agency name and contact information, leaving his picture, name, and cell phone number. He stapled the business card inside a real estate advertising booklet on a page with advertised listings of another agency. The booklet was available to the public at a local supermarket.

On another page of the booklet, Roy stapled a photocopied advertisement of a property being sold by auction. The property was not listed with Roy's agency. He included his name and cell phone number, identifying himself as a "Realtor" and listed the statement "May I represent you?" The auction advertisement was also stapled to a page with advertised listings of another agency. Roy had superimposed his name and contact information over the street location of the property to be auctioned and the auctioneer's name.

Roy was found in violation of 32 M.R.S.A. §§ 13067(1)(A), (F), and (H), and Chapter 330 Section 14 of the Maine Real Estate Commission Rules in effect at the time. He was ordered to pay a fine of \$500.00 and to successfully complete the Associate Broker Course.

2. Ronald A. Tremblay of Auburn, Maine. Tremblay was an inactive associate broker who failed to comply with a Commission Order.

In a previous hearing, Tremblay had been ordered to pay a fine of \$500.00 by a specific date. After receiving the written Decision and Order, Tremblay contacted the Commission staff and stated that he did not intend to pay the fine and did not wish to retain his license.

Tremblay was found in violation of 32 M.R.S.A. § 13067(1)(M). The Commission ordered the immediate revocation of Tremblay's inactive associate broker license.

On November 16, 2006 the members of the Commission accepted the following consent agreements entered into by the Director and various licensees:

1. Irene L. Belanger of South China, Maine. Belanger is a broker who failed to comply with the continuing education requirement for renewal.

As part of her license renewal application, Belanger certified that she had completed 15 clock hours of approved continuing education. After an audit, it was discovered that she had completed 3 clock hours after her license was renewed.

Belanger was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). She agreed to pay a fine of \$500.00.

2. Austin C. De Groat of Portland, Maine. De Groat is a broker who failed to comply with the exemption for real estate associate brokers and brokers performing appraisals.

De Groat was issued a Cease and Desist Letter by the Board of Real Estate Appraisers after it was discovered that De Groat, who is not a licensed appraiser, prepared an appraisal of property but did not include the statutorily required language notifying the recipient that the person preparing the appraisal is not a licensed appraiser and that the appraisal may not comply with appraisal standards. The statutory exemption applies to licensed associate brokers and brokers who offer opinions of value for purposes other than federally related transactions, and requires the written notification to be prominently displayed on the opinion of value.

De Groat confirmed that he had been providing the opinions of value for a period of time and is now in compliance with the Cease and Desist Letter.

De Groat was found in violation of 32 M.R.S.A. § 13067(1)(E). He agreed to pay a fine of \$300.00.

(Continued on page 9)

Current Cases (conclusion)

(Continued from page 8)

3. Timothy J. McInnis of Portland, Maine. McInnis is an associate broker who failed to comply with the continuing education requirement for renewal.

As part of his license renewal application, McInnis certified that he had completed 21 clock hours of approved continuing education. After an audit, it was discovered that he had completed 12 hours before renewing his license and 3 hours after his renewal license was issued.

McInnis was found in violation of 32 M.R.S.A. § 13067(1)(F) and 13197(1). He agreed to pay a fine of \$800.00 and to complete 6 clock hours of education.

4. Bronwen T. Pierson of Bucksport, Maine. Pierson is an associate broker who failed to disclose a criminal conviction.

Pierson was licensed as a sales agent in 2004. On her license application she indicated that she had not been convicted of a crime. In 2006 Pierson submitted an associate broker license application and disclosed a 1992 criminal conviction in Colorado.

Pierson was found in violation of 32 M.R.S.A. § 13067(1)(H). She agreed to pay a fine of \$200.00.

5. McClain Priester of Falmouth, Maine. Priester is a broker who failed to comply with the continuing education requirement for renewal.

As part of his license renewal application, Priester certified that he had completed 21 clock hours of approved continuing education. After an audit, it was discovered that he had completed 16 hours of education.

Priester was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). He agreed to pay a fine of \$600.00 and to complete 5 hours of education.

6. Mildred A. Rice of Bangor, Maine. Rice is a broker who failed to comply with the continuing education requirement for renewal.

As part of her license renewal application, Rice certified that she had completed 15 clock hours of approved continuing education. After an audit, it was discovered that she had not completed the required core course until after her license had been renewed.

Rice was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(3), and Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules. She agreed to pay a fine of \$500.00.

7. Pauline R. Rock of Bangor, Maine. Rock is an associate broker who failed to act properly in a transaction.

In two transactions, involving the same buyers and different sellers, Rock did not present the parties with appointed agent consent forms and did not have the forms completed and signed by the parties whom she was attempting to represent as an appointed agent. She also failed to provide Agency Relationships Form #2 to the seller

in one of the transactions, and did not maintain a copy of Form #2 presented to the buyers.

In one of the transactions, Rock identified herself as a disclosed dual agent in two different offers, although the seller in that transaction had not consented in writing to being represented by Rock. In the same offers, she also identified herself as the buyers' agent.

The seller and the buyers entered into a purchase and sale agreement without involving Rock. When Rock discovered later that a closing was scheduled, she filed a mechanics lien on the property. She did not have a listing agreement with the seller nor had the seller agreed to representation by Rock. Subsequently the lien was released and the sale closed.

Rock was found in violation of 32 M.R.S.A. §§ 13067(1)(A) and (H), and 13279; and Chapter 330 Sections 8 and 9(B) of the Maine Real Estate Commission Rules in effect at the time. She agreed to pay a fine of \$2,800.00; to complete the Associate Broker Course; and to a 30 day suspension of her associate broker license.

8. John E. Sylvester of Orrs Island, Maine. Sylvester is a designated broker who failed to comply with the continuing education requirement for renewal.

As part of his license renewal application, Sylvester certified that he had completed 15 hours of approved continuing education. After an audit, it was discovered that he had completed the core course during his biennial license term. After the audit, Sylvester submitted a request for individual credit for a course taken during his license term and was issued 15 hours of credit for the course.

Sylvester was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). He agreed to pay a fine of \$500.00.

Commission Website to be Redesigned

Have you visited our website? You can view your license status, download forms, follow links to rules and statutes, see upcoming CE schedules, read Commission meeting minutes and more! Information is at your fingertips 24 hours a day.

www.maineprofessionalreg.org

The website is currently being redesigned to make navigation easier. Stay tuned for updates.

[You Say Real Estate Appraisal, I Say "Broker Price Opinion \(BPO\)" . . . \(continued from Page 1\)](#)

An appraisal prepared by a real estate broker or associate broker that does not include the mandated disclosure language above is in violation of the Appraisal Law and may be found in violation of Title 32, c. 114 - the Real Estate Brokerage Law. It is not the responsibility of the mortgage company or lending institution to ensure that a real estate broker or associate broker is in compliance with the provisions listed above.

The Commission has received complaints alleging violations of the provisions listed above. The complaints include a sales agent performing an appraisal and appraisals performed by real estate brokers and associate brokers that did not include the mandated disclosure language. In each of these instances, violations were found and sanctions imposed against the licensees.

In addition to the limitation and mandated disclosure language found in the Appraisal Law, the Brokerage Law prohibits a real estate broker or associate broker from preparing an appraisal on property where the licensee or any licensee licensed with the real estate company is to receive a fee on that transaction. This section of the Brokerage Law is as follows:

§13251-A. Conflict of interest

A real estate broker or associate broker may not knowingly provide or offer an appraisal or opinion of market value, as set forth in section 14004, on real estate in a transaction where the broker or associate broker, or any other licensee licensed with the agency, is to receive a fee on that transaction.

Examination Authorization Cards Required for Sales Agent Examinations

Sales agent examination candidates must obtain an examination authorization card (also known as a "pink card" from the Commission in order to gain admission to the Promissor testing center. A Sales Agent Examination authorization request form can be downloaded from our website (www.maineprofessionalreg.org) and must be submitted to the Commission along with the original transcript issued by the Sales Agent course provider.

Services and Publications available on Commission website

On-line License Renewal: Start at www.maineprofessionalreg.org, and click on the button that says "renew an existing license." In order to renew online, you will then need to know your license number. A valid credit card and email address are also required. If you have problems with this system, please call (207) 624-8518.

License Status Check: You can check the status of your license on-line, at the Commission's website. Go to www.maineprofessionalreg.org, and click on the green button that says "find a licensee". Scroll to the bottom of the screen and select "start search", then choose "Real Estate Commission" from the drop-down list. Type in your last name and click on "find licensee". This is linked to our licensing database; information is updated in real time.

Forms: Have you downloaded change of license and agency record modification forms lately? Go to www.maineprofessionalreg.org, click on the "apply for a license" button, and select "R" for real estate. From our home page, look for the link that says "applications, forms and publications." License applications, copies of the Real Estate Brokerage statute and rules, copies of newsletters, commission meeting minutes and other documents of interest are also available.

Continuing Education: You can view a list of upcoming continuing education courses, plus a list of correspondence course providers and core course providers. Go to www.maineprofessionalreg.org, click on the "apply for a license" button, and select "R" for real estate. Below the link that says "applications, forms and publications" you will see a link that says "Continuing Education Course Schedule".

Prelicensing Courses: For a list of upcoming sales agent, associate broker and designated broker courses, Go to www.maineprofessionalreg.org, click on the "apply for a license" button, and select "R" for real estate. Below the link that says "applications, forms and publications" you will see a link that says "Prelicense Course Schedule".

CONTINUING EDUCATION REMINDER:

Effective January 1, 2007, all licensees must have completed "[New Laws and Rules Core Course](#)" in order to be eligible for license renewal. *Remember that 21 clock hours of continuing education are required for renewal.* For a list of current courses and approved distance education providers, visit our website (www.maineprofessionalreg.org)

Help Commission Staff Serve You Better

Following are suggestions you may follow to prevent delays when you request services from Commission staff.

1. **Download MOST CURRENT application forms from website.** Older applications include outdated information, including fees, check recipient information and supporting paperwork required. Processing delays are inevitable if we need to return your application because it is obsolete.
2. **Sign your application.** Staff cannot act on unsigned applications. Original license applications, renewals, and change of license applications must be signed in order to be processed.
3. **Sign your check.** If your check is not signed, it will be returned to you. Your application will not be processed until application fees are deposited.
4. **Send the correct amount of money.** If an application is received with incorrect fees, it will be returned to you.
5. **Make all checks payable to Maine State Treasurer.** The newest forms available on our website state that all checks must be payable to Maine State Treasurer. If you use check-writing software, please update the information stored there.
6. **Provide correct agency address and license number.** If agency address and license number do not match our records, delays will result. If we need to contact you to verify where you are planning to work, it will take longer to process your application.
7. **Return wall license and/or pocket card with change of license applications.** We will issue a new license when we process your change of license application.
8. **Make sure all requested information is included with your license application.** Sales agent applications must include original course transcript and original examination results. Broker applications must include original course transcript and brokerage activity report. If you became licensed as a sales agent prior to July 1, 2006 and now wish to apply for an associate broker license, please contact the Commission office to determine whether you must include associate broker transcripts or Promissor examination results.
9. **If renewing your license after its expiration date, include \$50 late fee.**
10. **Answer all questions on your renewal application.** If you have not answered the renewal questions, we cannot renew your license.
11. **Notify us if you move.** If you change your home address, you must notify the Commission within ten days (32 MRSA §13195). Notification must be made in writing; however, no form or fee is required. Please include your name, license number, old address, new address, new telephone number and effective date in your notification letter. If you become a resident of another state, be sure to download an irrevocable consent to service (ICS) form and include it with your notification.

2007 Holiday Schedule

The Real Estate Commission office will be closed on the following dates in 2007:

Monday, January 1	New Year's Day	Monday, September 3	Labor Day
Monday, January 15	Martin Luther King, Jr. Day	Monday, October 8	Columbus Day
Monday, February 19	President's Day	Monday, November 12	Veterans Day
Monday, April 16	Patriots Day	Thursday, November 22	Thanksgiving Day
Monday, May 28	Memorial Day	Friday, November 23	Thanksgiving Friday
Wednesday, July 4	Independence Day	Tuesday, December 25	Christmas Day

COMMISSION MEMBERS

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Maine Real Estate News is a semi-annual publication published under appropriation 014 02A 4060. This is a dedicated revenue account consisting of funds collected from licensing.

Total licensees, as of
December 1, 2006:

Agencies
1308

Designated Brokers
1108

Brokers
1371

Associate Brokers
2360

Sales Agents
1906

Inactive licensees
(all types)
1356

Total:
9409

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