

ISSUE PRESENTED

This matter was brought by Petitioner pursuant to 5 M.R.S.A. § 9051 et seq., 32 M.R.S.A. § 13068 and 10 M.R.S.A. § 8003(5). The issue presented to the Commission was whether the Petitioner has shown by a preponderance of the evidence that:

1. Respondent violated 32 M.R.S.A. §§ 13067(1)(F) and 13197, and Chapter 370 of the Maine Real Estate Commission Rules by certifying that he met all requirements for renewal of his real estate license, including completion of 21 clock hours of approved continuing education when he had not completed 21 hours of approved continuing education.

FINDINGS OF FACT

1. At the beginning of the hearing, the Commission entered into evidence Petitioner's Exhibits 1 through 8. Karen L. Bivins, Deputy Director of the Commission, testified that a copy of the complaint in this matter was mailed to Dennis D. Coffren, Jr., P.O. Box 261, North Anson, Maine 04958-0043, on August 13, 2007, which was the last address on file for Respondent with the Real Estate Commission. Ms. Bivins testified that the certified mail was returned by the Post Office as unclaimed. Ms. Bivins mailed copies of the Notice of Hearing and complaint by Regular First Class Mail on September 11, 2007 to Dennis D. Coffren, Jr. at the same address. The mailing by Regular First Class Mail was not returned to the Commission by the Post Office.

2. Ms. Bivins received a telephone call from Dennis Coffren on September

19, 2007 in which he indicated that he wanted to talk to someone about licensing. He did not indicate that he was calling to discuss the scheduled hearing. She referred the call to another Commission staff member, Deborah Fales. Mr. Coffren asked her about changing his address in the licensing file. Ms. Bivins indicated that Ms. Fales told Mr. Coffren that he should write in to the Commission with any change of address. The phone number that Mr. Coffren used to call Karen Bivins to leave the message was the phone number that was provided on the Notice of Hearing and her September 11, 2007 cover letter sending that to Mr. Coffren by regular mail.

3. Respondent filed his application to renew his associate broker license with the Commission on April 3, 2007. His prior license had an expiration date of April 1, 2007. On March 27, 2007 Respondent signed the renewal application and certified that he had met the requirements for license renewal, including the completion of 21 clock hours of approved continuing education. Respondent also acknowledged on that application that he was aware that the Commission would rely on this certification for issuance of the renewal license. The renewal license was issued effective April 3, 2007 with an expiration date of April 1, 2009.

4. On May 8, 2007 Respondent was notified by the Commission that he would be audited for compliance with the continuing education requirements. Respondent failed to respond to the audit letter and a second Notice of Audit was sent to the Respondent on June 11, 2007. On June 25, 2007 Respondent submitted evidence

of his continuing education courses. Respondent demonstrated that he had completed of 18 clock hours of approved continuing education prior to the expiration of his license, including the core course.

CONCLUSIONS OF LAW

Based on the above specific findings of fact and the additional evidence in the record not specifically referred to herein, and for all the reasons indicated on the record at hearing, the Commission made the following conclusions of law:

1. With respect to Count 1, the Commission finds that the Respondent certified that he met all the requirements for renewal of his real estate license, including completion of 21 clock hours of approved continuing education, when he had not completed 21 hours of approved continuing education. All that is required to establish a violation of Count 1 is that the licensee failed to successfully complete the continuing education requirements, including the core course requirement. He was 3 hours short.

RECORD VOTE

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|---------------------|-------------|
| David C. Kitchen | Affirmative |
| Sharon A. Millett | Affirmative |
| Jeffrey S. Mitchell | Affirmative |
| Winfred A. Stevens | Affirmative |

SANCTION

The Commission voted to impose a fine in the amount of \$600 within 30 days with payment to be made in the form of a bank check or money order payable to the

Treasurer of the State of Maine. The Commission also orders Respondent to submit course certificates documenting 3 clock hours of approved continuing education within 30 days, to be used only for Respondent's April 2007 license renewal.

RECORD VOTE

| | |
|---------------------|-------------|
| David C. Kitchen | Affirmative |
| Sharon A. Millett | Affirmative |
| Jeffrey S. Mitchell | Affirmative |
| Winfred A. Stevens | Affirmative |

DATED:

10/18/07


DAVID C. KITCHEN, Chairperson
Maine Real Estate Commission

APPEAL RIGHTS

Pursuant to 5 M.R.S.A. § 9061, the parties are hereby notified that they have a right to appeal the Commission's decision to the Superior Court pursuant to 10 M.R.S.A. § 8003(5-A) by filing a petition for review with that court within thirty (30) days of receipt of a copy of this Decision and Order. Pursuant to 10 M.R.S.A. § 8003(5-A) and 5 M.R.S.A. § 11002(3), any other person aggrieved by this Decision and Order who wishes to seek judicial review thereof has forty (40) days from the date this decision was rendered to petition the Superior Court for review.