



### 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 Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules by certifying that she met all requirements for renewal of her real estate license, including completion of 21 clock hours of approved continuing education when she had not completed 21 hours of approved continuing education, including the core course.

### FINDINGS OF FACT

1. At the beginning of the hearing, the Commission entered into evidence Petitioner's Exhibits 1 through 5. Respondent's Exhibit 1 was entered into evidence.

2. Respondent filed her application to renew her associate broker's license with the Commission on March 19, 2007. Her prior license had an expiration date of March 11, 2007. On March 1, 2007 Respondent signed the renewal application and certified that she 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 she was aware that the Commission would rely on this certification for issuance of the renewal license. The renewal license was issued effective March 19, 2007 with an expiration date of March 11, 2009.

3. On April 6, 2007 Respondent was notified by the Commission that she would be audited for compliance with the continuing education requirements. On May 7, 2007 Respondent submitted evidence of her continuing education courses. Respondent demonstrated that she had completed of 32 clock hours of approved continuing education prior to the expiration of her license. However, these hours did not include the required core course.

4. On May 23, 2007, Respondent submitted a certificate showing successful completion of the core course.

5. Respondent testified that she takes continuing education very seriously and thus had acquired 11 hours beyond the minimum necessary. She indicated that she attended a program put on by her agency entitled "Changes in Law and Rules" and thought that was the core course. However, she did not have any certificate from it and remembered that it may have only been a couple of hours in duration. She testified that during this period, in general, she had been somewhat distracted from her licensing obligations due to the illness and death of her mother and the birth of her child.

#### 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 she met all the requirements for renewal of her real estate license, specifically completion of 21 clock hours of approved continuing education, including

the core course, when she had not completed the core course. 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. While the licensee may have had no intention to skirt that requirement, this is not an excuse for failing to comply with the licensing requirement.

RECORD VOTE

Earl C. Black	Affirmative
Jeffrey S. Mitchell	Affirmative
Sharon A. Millett	Affirmative
Winfred A. Stevens	Affirmative

SANCTION

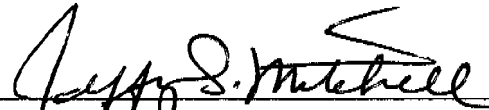
The Petitioner requested a sanction in the amount of \$500. The Commission, instead, voted to fine the licensee in the amount of \$300 to be paid within 30 days with payment to be made in the form of a bank check or money order payable to the Treasurer of the State of Maine. In reducing the requested sanction in this matter the Commission, although sympathetic to the personal difficulties encountered by the Respondent, does not find that personal difficulties excuse a lack of attention to professional licensing responsibilities. However, the Commission did take into account that Respondent demonstrated an otherwise very diligent attitude to continuing education during this licensing cycle by taking a total of 32 hours. The Commission therefore determined that it would be appropriate to reduce the requested sanction in this matter.

RECORD VOTE

Earl C. Black	Affirmative
Jeffrey S. Mitchell	Affirmative
Sharon A. Millett	Affirmative
Winfred A. Stevens	Affirmative

DATED:

10/18/07

  
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JEFFREY S. MITCHELL, 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.