

ISSUE PRESENTED

This matter was brought by Petitioner pursuant to 32 M.R.S.A. § 13069(6)(C).

The issue presented to the Commission was whether the Petitioner has shown by a preponderance of the evidence that:

1. Respondent failed to comply with a Consent Agreement, dated May 24, 2007, by failing to pay a \$200 fine on or before May 25, 2007 in violation of 32 M.R.S.A. § 13067(1)(M), which was in effect at the time.

FINDINGS OF FACT

1. Petitioner's Exhibits 1 through 8 were admitted. Karen Bivins testified that a copy of the Complaint and Notice of Hearing in this matter was sent by certified mail, return receipt requested, on February 21, 2008 to Patricia Balzano at 33 Spear Avenue, Windham, Maine 04062, which was the last address on file for Respondent with the Commission. It was also mailed by certified mail, return receipt requested and regular mail to Respondent at 1026 Woodland Street, Columbia, Tennessee 38401, which was the address used by the designated broker notifying Respondent that her license had been returned to the Commission. The return receipt, showing a delivery for the Windham, Maine address indicated that the Post Service had attempted to deliver it at P.O. Box 1924 Columbia, Tennessee 38402, but that it had been unclaimed after three attempts at delivery. The return receipt for the 1026 Woodland Street,

Columbia, Tennessee address was also returned by the Post Office as unclaimed after three attempts at delivery. The regular mail was not returned to the Commission.

2. On March 21, 2008 the Notice of Hearing was sent by regular first class mail to the address at P.O. Box 1924 Columbia, Tennessee 38402. It was not returned to the Commission. Service of the notice of hearing was properly made. The Commission further notes that the Respondent had an obligation pursuant to statute to keep the Commission apprised of her current address.

3. Ms. Bivins testified that there had been no communication to the staff of the Commission from Ms. Balzano since the Notice of Hearing was mailed. Ms. Balzano had not signed in to the front desk at the Department of Professional and Financial Regulation on the hearing day prior to the beginning of the hearing. Ms. Bivins also testified that there were no written communications, telephone voice messages or e-mails from Ms. Balzano after the notice of hearing was mailed and up to the time of the hearing. An affidavit was admitted indicating that, according to the Department of Defense and Manpower Data Center, Ms. Balzano was not on active duty in the United States military service.

4. On April 17, 2007, Respondent returned to the Commission a signed Consent Agreement acknowledging a disciplinary violation and agreeing to pay a fine of \$200 by May 4, 2007. Initially, it was anticipated that agreement would be approved by the Commission at its meeting on April 19, 2007. However, that meeting was

cancelled due to a lack of quorum. Respondent was notified of that and that the Commission would consider the Consent Agreement at its meeting on May 24, 2007.

5. On May 24, 2007, the Commission approved the Consent Agreement. A copy of the Consent Agreement was sent to the Respondent on May 24, 2007 with instructions to pay the fine immediately. No payment was received.

6. On October 23, 2007 Commission staff again wrote to the Respondent notifying her that the payment was overdue and requested that she submit it immediately in order to avoid further disciplinary action. No payment has been made to the Commission by the Respondent.

7. The Respondent's sales agent license expired on March 13, 2008.

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 conclusion of law:

The Commission finds that the Respondent failed to comply with the Consent Agreement by not paying the \$200 fine by May 25, 2007 and thus, violated 32 M.R.S.A. § 13067(1)(M), which was in effect at the time.

RECORD VOTE

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

ORDER

The Commission hereby ORDERS that a \$500 fine be paid by the Respondent. The Respondent shall pay this fine by BANK CHECK or MONEY ORDER payable to: "Treasurer, State of Maine" within thirty (30) days of the date of this signed Decision and Order. The Commission is imposing a fine for this violation and not taking any action against the Respondent's license because her license expired shortly before the date of the hearing. In the event that the \$200 fine and the \$500 are not paid in a timely manner, the Commission would expect the staff to deny any subsequent application for licensure, unless any outstanding issues as to payment are resolved prior to granting the application.

RECORD VOTE

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

DATED:

4/17/08



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.