

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 Decision and Order, dated April 17, 2008, by failing to pay a \$800 fine and submit course certificates documenting 7 hours of continuing education on or before May 17, 2008 in violation of 10 M.R.S.A. § 8003(5-A)(A)(9).

FINDINGS OF FACT

1. Petitioner's Exhibits 1 through 6 were admitted. Karen L. Bivins, Deputy Director of the Commission, testified that a copy of the Complaint and Notice of Hearing in this matter was mailed on August 7, 2008 to John M. Crowley, Crowley Realty, 263 State Park Road, Casco, Maine 04015, which was the last address on file for Respondent with the Commission. It was mailed by certified mail, return receipt requested. The certified mail was received back from the Postal Service on August 16, 2008 showing that it had been received by John M. Crowley.

2. Ms. Bivins testified that there had been no communication to the staff of the Commission from Respondent since the Notice of Hearing was mailed. She testified that Respondent 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 other written communications, telephone voice messages or e-mails from Respondent after the Notice of Hearing was mailed and up to the time of the hearing.

3. The Commission issued a Decision and Order on April 17, 2008 which required Respondent to pay a fine in the amount of \$800 and to submit documentation of completing 7 hours of continuing education within thirty (30) days of the date of that Decision and Order. Respondent received the Decision and Order on April 23, 2008. On June 2, 2008, the Commission staff mailed Respondent a letter notifying him that he was not in compliance with the Decision and Order and instructed him to immediately pay the fine and provide the course certificates in order to avoid further disciplinary action. Respondent did not pay the fine at any time, nor provide the course completion documentation.

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 Decision and Order by not paying the \$800 fine by May 17, 2008 and submitting documentation of completing 7 hours of continuing education by May 17, 2008 and thus, violated 10 M.R.S.A. § 8003(5-A)(A)(9).

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 the immediate revocation of the Respondent's broker license. Respondent has failed to pay the fine imposed in this matter and failed to provide documentation of the 7 clock hours of continuing education that he had failed to obtain as part of his license renewal process. Thus, Respondent has held a license for over 14 months which he did not qualify for due to his failure to obtain continuing education. In the Decision and Order involved in this case, the Commission provided him with an opportunity to make up the hours that he did not have. The Respondent has failed to do so and has made no attempt to explain why he could not have done so. This failure, combined with the failure to pay the \$800 fine, clearly demonstrates a disdain for, or disinterest in, maintaining his licensing obligations to the Commission. Therefore, the Commission considers that revocation of his license is necessary to protect the public from the potential harm that might result from a similar disregard of other Commission requirements that would be more directly applicable to the licensee's obligations to clients, customers and the general public with whom he deals as a broker.

RECORD VOTE

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

DATED:

10/16/08



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.