

Commission was whether the Petitioner has shown by a preponderance of the evidence that:

1. Respondent violated 10 M.R.S.A. § 8003(5-A)(A)(1) by practicing fraud, deceit, or misrepresentation when he filed an application with the Commission to become licensed as an associate broker on or about June 12, 2008, and represented that no jurisdiction had taken disciplinary action against any professional license that he had ever held.

FINDINGS OF FACT

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

2. Following a hearing held on May 7, 2002, the Maine Board of Real Estate Appraisers issued a Decision and Order imposing disciplinary action against Respondent who was then licensed as a real property appraiser trainee. After finding that the Respondent had committed violations of the Uniform Standards of Professional Appraisal Practice ("USPAP"), failed to exercise reasonable diligence, and demonstrated negligence or incompetence in performing an appraisal, the Board imposed the following disciplinary action against respondent: a reprimand; a fine of \$1,000.00; and additional specified continuing education.

3. On June 9, 2008, the Commission received Respondent's application to become an associate broker. On the application Respondent circled "No" in response to

the question of whether any jurisdiction had taken disciplinary action against any professional license he had held. Respondent had signed the payment authorization portion of the application on May 29, 2008, but had failed to sign the certification that his response to the professional license disciplinary question was true and accurate.

4. Commission staff returned the application to Respondent because it was missing the certification signature. On June 12, 2008, Respondent signed the certification on the application and thereafter returned it to the Commission. The Commission received the now completed application on June 16, 2008. In signing the certification the Respondent specifically acknowledged that the Commission would rely on the certification for issuance of the license and that sanctions may be imposed against him if any of the information was found to be false.

5. On June 20, 2008, the Commission issued Respondent associate broker license number BA914094.

6. At the hearing, Respondent claimed he was undergoing stress due to his son's medical problems during the time period in which he submitted the application and then resubmitted it with the certifying signature. The Commission is not persuaded that this explanation can account for the Respondent's failure to accurately represent his disciplinary history when both submitting and then resubmitting the application with the certifying signature.

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:

1. With respect to Count 1, the Commission finds that the Respondent violated 10 M.R.S.A. § 8003(5-A)(A)(1) by practicing fraud, deceit, or misrepresentation when he filed an application with the Commission to become licensed as an associate broker on or about June 12, 2008, and represented that no jurisdiction had taken disciplinary action against any professional license that he had ever held.

RECORD VOTE

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

SANCTION

The Commission orders that Respondent pay a FINE in the amount of three hundred dollars (\$300.00). The Respondent shall pay this fine to the Commission 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.

RECORD VOTE

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

DATED:

12/18/08



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.