

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-A). The issue presented to the 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 filing with the Commission on June 10, 2008 a sales agent license application that was not properly completed in that he failed to disclose discipline imposed against his real estate appraiser's license in January 2005.

FINDINGS OF FACT

1. At the beginning of the hearing, the Commission entered into evidence Petitioner's Exhibits 1 through 7.

2. Respondent filed his application for a sales agent license with the Commission on June 10, 2008. As part of the application Respondent answered "no" to the question "Has any jurisdiction taken disciplinary action against any professional license you hold or have held or denied your application for licensure?" In fact, Respondent had been disciplined by the Maine Board of Real Estate Appraisers in January 2005. In the course of that disciplinary action, the Board imposed a fine, investigative costs and required educational courses.

3. On June 17, 2008, the Petitioner contacted Respondent concerning his answer on the application. The Respondent acknowledged that the answer was an error because he had entered into a consent agreement for the January 2005 discipline with the Board of Real Estate Appraisers. On July 7, 2008, Respondent amended his sales agent application by disclosing the discipline. Respondent acknowledged in his testimony that the discipline should have been listed. He testified that he had "hastily" completed the application and in so doing had erroneously assumed that the question was referring to discipline from other jurisdictions.

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 filed with the Commission on June 10, 2008 a sales agent license application that was not properly completed in that he failed to disclose discipline imposed against his real estate appraiser license in January 2005, which is a violation of 10 M.R.S.A. § 8003(5-A)(A)(1).

The Commission finds that the application was not properly completed because the answer was erroneous. This violation does not require a finding of fraud or

intentional misrepresentation. The application was simply completed in an inaccurate manner.

RECORD VOTE

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

SANCTION

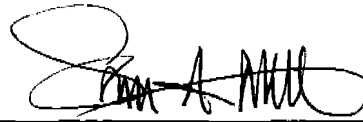
The Commission orders Respondent to pay to the Commission a fine in the amount of \$300 within 30 days of the date of this Decision with payment of the fine payable to: "Treasurer, State of Maine". This fine is appropriate based on the lower end of fines imposed by the Commission. The Commission imposes slightly more than the minimum fine to emphasize to the Respondent the necessity of careful consideration of all professional paperwork, correspondence and applications with the Commission. In the future, Respondent should always be certain not to "hastily" review any professional paperwork.

RECORD VOTE

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

DATED:

3/26/09



SHARON A. MILLETT, 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.