



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)(4) and 32 M.R.S.A. § 13197(1) by certifying that he met all requirements for renewal of his real estate license, including completion of 21 clock hours of approved continuing education when he had not completed 21 hours of approved continuing education.

#### FINDINGS OF FACT

1. At the beginning of the hearing, the Commission entered into evidence Petitioner's Exhibits 1 through 8. The Respondent did not enter any exhibits.

2. Respondent filed his application to renew his broker license with the Commission on September 16, 2008. His prior license was set to expire September 28, 2008. On September 16, 2008 Respondent filed the renewal application on line and, as part of that process, certified that he 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 he was aware that the Commission would rely on this certification for issuance of the renewal license. The renewal license was issued effective September 29, 2008 with an expiration date of September 28, 2010.

3. On October 7, 2008 Respondent was notified by the Commission that he would be audited for compliance with the continuing education requirements. No

response was received by the Commission. A second notice of audit was sent to Respondent on November 10, 2008. The Respondent testified and provided other evidence that he had in fact responded to the first notice of audit. The Commission found him credible concerning this. On November 18, 2008 Respondent submitted course certificates confirming completion of 18 hours of approved continuing education, including the required core course. He also submitted an additional certificate for a course that was not approved for continuing education in Maine. On December 29, 2008 Respondent submitted a certificate showing that he completed 3 hours of approved continuing education on December 16, 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 conclusions of law:

1. With respect to Count 1, the Commission finds that the Respondent certified that he met all the requirements for renewal of his real estate license, specifically completion of 21 clock hours of approved continuing education, when he had only completed 18 hours, including 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.

RECORD VOTE

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

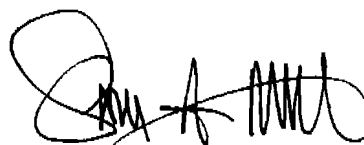
SANCTION

The Commission orders Respondent to pay to the Commission a fine in the amount of \$400 within 30 days of the date of this Decision with payment of the fine being payable to: "Treasurer, State of Maine." The Petitioner originally requested a fine in the amount of \$600. The Commission has reduced that fine to a \$400 fine because it has concluded that the Respondent did respond to the original notice of audit. Thus, this case involves a violation where the Respondent was 3 hours short of his requirement and mistakenly thought that continuing education approved in another state would be acceptable in Maine. The sanction imposed hereby is consistent with sanctions imposed in other cases for a similar level of non-compliance with the continuing education requirements.

RECORD VOTE

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

DATED: 4/16/09



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.