

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1945-1946**

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May 15, 1946

To Guy R. Whitten, Deputy Insurance Commissioner  
Re: Individuals Operating as Insurance Agents under a Trade Name

In reply to your inquiry of May 14th:

So far as individuals are concerned, the statute only requires the Insurance Commissioner to issue a license to that individual. In the past, as I understand it, it has been the custom to license the individual by describing him by name and then following that up with the statement that he does business under a trade name.

A partnership is licensed in its firm name, which may be a trade name, and the name of each individual member thereof. In the case of a corporation the license is to be issued to the corporation by its corporate name, and the name of each officer or member thereof authorized to transact business therefor under such license; but individuals holding the two former licenses are authorized to transact business "for and in the name of the firm or corporation only."

Your present inquiry is whether three individuals who represent that they are doing business under the same trade name, in the same locality, and not being in partnership under that trade name, may be licensed in their individual names doing business under the same trade name. My answer is in the negative. Such a practice would lead to utter confusion, because if one insured under the agency by the trade name, the Commissioner would have to determine which of the three persons was the one with whom he was doing business. I do not believe that the statute contemplates any such practice. You would thus be justified in refusing to issue a license to them with any more than their own names.

ABRAHAM BREITBARD  
Deputy Attorney General

May 17, 1946

To Earle R. Hayes, Secretary, Employees' Retirement Status  
Re: Retirement Status, Secretary, Normal School

Your memorandum of April 10th involves the question whether a secretary employed at a State Normal School is eligible to join the Teachers' Retirement System, or whether the State Employees Retirement System is the only one of which she may become a member.

Reference is made by you to an amendment of the law by which certain school secretaries were included within the definition of the term 'teacher' in the Teachers' Retirement Act.

This refers to Chapter 225 of the Laws of 1941, now paragraph I of Section 221 of Chapter 37, R. S. 1944, whereby 'teacher' was defined to mean "Any teacher, principal, supervisor, school nurse, school secretary, or superintendent employed in any day school within the state; . . ."

The Commissioner of Education advises me that the term 'day school' is not applicable to the State Normal Schools, as the latter are 'resident' schools, which distinguishes them from 'day schools.'

I therefore advise you that secretaries employed at the State Normal Schools are not eligible to become members of the Teachers' Retirement System.

ABRAHAM BREITBARD  
Deputy Attorney General

May 21, 1946

To Guy R. Whitten, Deputy Insurance Commissioner

In your memo of May 15th you ask to be advised if a foreign corporation, qualified to transact business in this State by compliance with the statutory provisions of the Corporation Law, may be licensed as an insurance broker under Section 251 of Chapter 56. Your doubt arises from the fact that the officer or member who is to be authorized to transact the business on behalf of the corporation is a resident of the State.

The statute provides that ". . . the license issued to such corporation shall give the corporate name, and the name of each officer or member thereof authorized to transact business therefor under such license, and such licenses shall authorize the persons named therein to transact business for and in the name of the firm or corporation only."

It is quite clear from this provision that the corporation is the principal as well as the licensee, and that the member or officer is merely named as the person authorized to act for it "under such license."

You are therefore advised that the corporation may be licensed as a non-resident broker, notwithstanding the fact that the officer or member designated to act for it is a resident of the State.

ABRAHAM BREITBARD  
Deputy Attorney General

May 21, 1946

To Richard E. Reed, Commissioner of Sea and Shore Fisheries

. . . Section 57 will be found under Chapter 33 of the Inland Fish and Game Laws in the back part of the Session Laws of 1945, which prohibits the pollution of streams and inland waters by depositing slabs, edgings, sawdust, chips, bark, mill waste, shavings, or other fibrous materials created in the manufacture of lumber or other wood products. I find nothing in the Sea and Shore Fisheries Law which authorizes you as Commissioner to abate this pollution. I have taken the matter up with Mr. Hale of the Sanitary Water Board and he states that the discharge of this waste began before July 21, 1945, and the Board has authority under the present law to handle only new sources of pollution.

The only relief would be for the citizens below the point where the sawdust is dumped to take action to abate a nuisance, which would not come within your jurisdiction.

RALPH W. FARRIS  
Attorney General