

# MAINE STATE LEGISLATURE

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September 17, 1953

To the Real Estate Commission  
Re: Unlicensed Non-Residents (Executive Sales Co.)

We have your memorandum relative to the above captioned company, with request for advice to curb their unusual and unethical practices.

It is obvious from the material at hand that this company and its agents are not merely soliciting advertising. They go much further, they agree to advertise the property nationally, but we note that they take extreme caution to prepare for ultimate sale by reserving the amount of their commission. Note the use of the words "in the event that the sale is made through the company, or its agents, . . . shall receive 8% of the selling price as and for its commission." We feel that the agreement before us comes within the statutory definition of both broker and salesman:

"One who for a compensation or valuable consideration sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate. . . as a whole or partial vocation."

It is clear that by Chapter 75, Section 3, R. S. 1944, it is unlawful for any firm, person or corporation to act as a real estate broker or salesman without being licensed within this State. Provisions are made for the licensing of non-resident brokers and salesmen; see Section 10 of Chapter 75. The only way that I can see that you can put a stop to these practices is to prosecute the offenders for engaging in business without a license, using the criminal provisions of Section 12 of Chapter 75. If, on the other hand, the Commission licenses this non-resident company, then the Commission can control unethical practices by suspension or revocation of license.

Perhaps it would be wise to inform this company or its agents, or to write personally to the alleged offender, telling them or him that doing business in the State of Maine without a license is illegal. It might also be a good idea to write to the New York Board complaining against any of their licensees who are operating within our jurisdiction without being properly licensed.

Roger Pubnam  
Assistant Attorney General