

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

May 1, 1957

To: Doris M. St. Pierre, Secretary, Maine Real Estate Commission

Re: Co-brokerage agreement—Failure to pay certain moneys

Richard Griffin v. Marion Freeman

I have your memorandum of April 17, 1957, with enclosed complaint and other papers with regard to the alleged failure of one Marion Freeman to pay certain moneys to one Richard Griffin. From the papers at hand it appears that Richard F. Griffin and Marion Freeman are both licensed real estate brokers in the State of Maine and that at some time they entered into a co-brokerage agreement with regard to certain property which property was sold and a commission accrued. Griffin sued Freeman and recovered judgment in the amount of \$465.17. On this judgment \$150.00 has been paid by Freeman leaving a balance due of \$315.17. The commission evidently feels that a hearing should be held to determine whether or not Marion Freeman is guilty of violating paragraph G of sub-section I of section 8 of Chapter 84 of the Revised Statutes of 1954, as amended, commonly known as the Real Estate License Law.

Paragraph G is as follows:

“Failing, within a reasonable time, to account for or to remit any moneys coming into his possession which belong to others.”

This section must be construed in the light of the previous language of sub-section I which in part is as follows:

“Where the licensee in performing or attempting to perform any of the acts mentioned herein is deemed to be guilty of . . .”

It is our opinion that under the facts of this case as presented by the complaint and the attached papers, the Commission is without jurisdiction to hold a hearing to determine whether or not one real estate broker's license should be revoked or suspended for failure to pay money owed to another licensed real estate broker. The purpose of the Real Estate License Law is to protect the public from the false and fraudulent dealings of real estate brokers and salesmen. It was not passed to settle disputes between licensed real estate brokers. The courts are fully capable of carrying out this phase of business dealing and as this case discloses, the question of the right to part of the commission has been determined in a judicial proceeding. The complainant merely seeks to have the judgment of the court enforced by administrative action by the Commission. We feel that this is improper and outside of the jurisdiction conferred on you by the statutes. In view of the foregoing, we see no reason to comply with your request that we assist the Commission in preparing this case for hearing.

ROGER A. PUTNAM
Assistant Attorney General

May 14, 1957

To: Doris M. St. Pierre, Secretary of Maine Real Estate Commission

Re: Advertising by a licensed broker

We have your memorandum of May 9, 1957, which asks the following question: