

MAINE STATE LEGISLATURE

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JB BE
April 7, 1971 ✓

Leo M. Carignan, Ex. Secretary

Real Estate Commission

Clayton N. Howard, Assistant

Attorney General

Dual Licensing as Individual and as Designated Broker

SYLLABUS:

An individual is not disqualified from being a designated broker for a corporation merely because he holds a valid license as an individual broker.

FACTS:

A licensed real estate broker in this State operates a real estate agency as an individual proprietorship. The broker who is also an officer of a corporation, now seeks to also qualify as the designated broker for the purpose of qualifying that corporation for a broker's license.

QUESTION:

Whether one holding an individual broker's license may maintain that license and also qualify as a designated broker within the meaning of 32 M.R.S.A. § 4114.

ANSWER:

Yes.

REASON:

The applicable law regarding the licensing of a corporation as a real estate broker provides in pertinent part as follows:

" * * * When the real estate broker's license is granted to any partnership or association, consisting of more than one person, or to a corporation, this shall entitle the partnership, association or corporation to designate one of its members or officers, who upon compliance with the terms of this chapter shall, without payment of any further fee upon issuance of said broker's license, be entitled to perform all of the acts of the real estate broker contemplated by this chapter. " 32 M.R.S.A. § 4114.

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The above language contemplates that the corporation shall be the entity holding the license upon qualifying one of its officers. Although the corporation may only act as a broker through its designated broker, there is no express prohibition against the person so designated holding a valid license as an individual broker. Aside from any express prohibition, I am unable to see any ambiguity or conflict in the real estate laws which would warrant or support an interpretation that would impliedly disqualify the individual from maintaining the two positions, concurrently.

It should be pointed out that the Commission is not licensing the individual twice. It is simply licensing the individual in one instance and the corporation in the other.

If the designated individual wishes to insure his position as a broker for purposes of renewal under 32 M.R.S.A. § 4110, he would be well advised to maintain his individual license.

The licensing of an individual as a broker does not therefore disqualify that individual from becoming a designated broker for a corporation.

CNH/mf

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