

26 August 1947

William Cox, Deputy
State Real Estate Department
Capitol Annex
Phoenix, Arizona

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ARIZONA ATTORNEY GENERAL

Dear Mr. Cox:

In your letter of July 24, 1947, you submit to us for our opinion the validity of the incidental rights of a real estate broker to a commission involved in a transaction as affected by our law. The facts roughly are these: a Florida real estate broker negotiated the sale of a piece of Arizona real estate for a Florida purchaser. The question, of course, is whether the broker must comply with Article 17, the Real Estate Code, in order that the commission may rightly be paid to him.

It was held in the case of Land Company v. Fetty, (1926 C.G.A. 5th), 15 Fed. (2d) 942, (writ of certiorari denied in 1927) 273 U.S. 764, that a Georgia lumberman employed as a broker for one sale of real estate in Florida was not in violation of the Florida Real Estate Code, although not licensed in the latter state. The court held that an isolated act as broker, as distinguished from a person holding himself out as a Florida broker, does not constitute the practice of real estate brokerage. The Florida act, like our law, provided that one act shall constitute the performer thereof a real estate broker.

In view of this authority and the distinction made by the Federal Court interpreting a law identical with ours, we are of the opinion that an isolated sale of Arizona real estate by the Florida broker would not be a violation of our law.

Hoping this answers your inquiry, we remain

Very truly yours,

JOHN L. SULLIVAN
Attorney General

WILLIAM P. MAHONEY, Jr.
Assistant Attorney General

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