

STATEMENT OF THE ISSUE

- I. Whether the Findings of Fact entered by the Commission were clearly erroneous.

The lower court determined the Commission's finding of dishonesty was clearly erroneous.

Fisher v. Kahler, 2002 S.D. 30, ¶9, 641 NW 2d 122

Leonard v. SD Real Estate Commission, 2010 S.D. 97, ¶12,  
793 NW 2d 19

SDCL 36-21A-71(15)

SDCL 36-21A-79

- II. Whether the Circuit Court erred as a matter of law when it concluded that licensee's actions did not constitute dishonesty.

The lower court determined the record did not confirm a conclusion of dishonesty from St. Pierre's conduct.

Holmes v. Couturier, 452 NW 2d 135, 136-37 (S.D. 1990)

Fisher v. Kahler, 2002 S.D. 30, ¶9, 641 NW 2d 122

Cotton v. Stange, 1998 S.D. 81, ¶9, fn. 1, 582 NW 2d 25, 28

- III. Whether Ms. St. Pierre was bound by her own testimony stating she acted in a dishonest manner.

The lower court did not consider her admission of dishonest conduct.

Clausen v. Northern Plains Recycling, 2003 S.D. 63, ¶21,  
663 NW 2d 685

Cotton v. Stange, 1998 S.D. 81, ¶9, fn. 1, 582 NW 2d 25, 28

Petersen v. Dacy, 550 NW 2d 91, 95 (S.D. 1996)

IV. Whether attorney's fees paid by the Commission can be recovered as part of its actual expenses of the proceeding, and a \$1,000.00 penalty be ordered.

The lower court did not reach this decision when it reversed the Commission in total.

Olesen v. Snyder, 277 NW 2d 729 (S.D. 1979)

Leonard v. SD Real Estate Commission, 2010 S.D. 97, ¶12,  
793 NW 2d 19

Brooks v. Milbank Ins. Co., 2000 S.D. 16, ¶29, 605 NW 2d  
173.