



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-36A

John W. Maile, Executive Director
Oklahoma Used Motor Vehicle and
Parts Commission
2401 NW 23rd St., Ste. 57
Oklahoma City, Oklahoma 73107

January 13, 2015

Dear Executive Director Maile:

This office has received your request for a written Attorney General Opinion regarding agency action that Oklahoma Used Motor Vehicle and Parts Commission intends to take. The proposed action is to deny an application for a license by Next Generation Motorsports, LLC. The spouse of the applicant's sole member had, in the past, worked for another licensee; violated agreements made with that licensee; and then failed to account for substantial sums of money. Further, the applicant's member and the member's spouse made statements indicating the spouse would be the primary operator of the business.

Oklahoma law requires the Commission to seek information on applicants' financial status, business integrity, and competence to conduct business. 47 O.S.Supp.2015, § 583(B)(1)(a), (b), (d). If this information shows that an applicant has engaged in used motor vehicle dealing in a way that "cause[d] injury to the public or to those with whom the licensee is dealing" or that has been "fraudulent," the Commission may deny issuance of a license. 47 O.S.Supp.2015, § 584(A)(6)(d), (e).

Further, the Commission's rules state that a license may be denied if evidence shows the business will actually be conducted by a person other than the applicant and that person could not obtain a license. OAC 765:10-5-1(a). The rule ensures that licensees who could not qualify for licensure do not make an end-run around the licensure requirement by using, essentially, a straw applicant.

This action seeks to enforce the rule. The Commission believes that statements made by the applicant's member and the member's spouse indicate that the spouse will be the actual business operator, and the Commission believes the evidence shows that the spouse has engaged in fraudulent and harmful practices in the used motor vehicle industry in the recent past. However, it is noteworthy that, after denial, an applicant must receive an opportunity to resolve issues prompting the denial. *See* 47 O.S.Supp.2015, § 584(F). If the applicant can satisfy the Commission's concerns, they may still receive a license.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Used Motor Vehicle and Parts Commission has adequate support for the conclusion that this action advances the State of Oklahoma's policy to protect the public interest and the public welfare.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt". The signature is stylized with a large, sweeping initial "E" and a long horizontal line extending to the right.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA