



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-29A

Charla Slabotsky, Executive Director
Oklahoma Real Estate Commission
1915 N. Stiles Ave., Ste. 200
Oklahoma City, Oklahoma 73105

January 13, 2016

Dear Executive Director Slabotsky:

This office has received your request for a written Attorney General Opinion regarding agency action that the Oklahoma Real Estate Commission intends to take with respect to Board case C-2013-086. The proposed action is to impose a fine of \$1,000 on a broker licensee for failing to identify an ownership interest in property that the licensee was marketing for sale. The licensee was the sole member of a business entity that owned the commercial real estate, while licensee only identified as a "listing broker" on all advertisements.

Oklahoma law authorizes the Commission to discipline licensees who engage in any "conduct which constitutes untrustworthy, improper, fraudulent, or dishonest dealings," and the Commission's rules include "[f]ailure to make known in writing to any purchaser any interest the licensee has in the property they are selling." 59 O.S.2011, § 858-312(8); OAC 605:10-17-4(7). Real estate licensees have no fiduciary or other common law agency obligations except for specific duties imposed by Oklahoma statutes, *see* 59 O.S.Supp.2015, § 858-360(A), and the actual duties imposed on a real estate licensee extend in large part to all parties to a transaction, *see* 59 O.S.Supp.2015, § 858-353. The rule comprehends that the relationship between real estate licensees and parties to a transaction must be fundamentally different where the licensee is also a principal to a transaction, and it seeks to protect consumers by providing this information to them in a disclosure. The Board may reasonably believe that licensee's failure to do so here warrants a monetary penalty that will encourage compliance in the future.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Real Estate Commission has adequate support for the conclusion that this action advances the State of Oklahoma's policy to uphold standards of professionalism and integrity among real estate agents.

A handwritten signature in black ink, appearing to read "Scott Pruitt".

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA