



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2019-265A

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

November 26, 2019

Dear Executive Director Kueffler:

This office has received your request for a written Attorney General Opinion regarding action that the Oklahoma Real Estate Commission intends to take with respect to consumer complaint C-2017-077, which was filed in August 2017 regarding two Respondents, a broker licensee (Broker) and related corporate licensee (LLC) for which Broker was the managing broker. The Commission investigated and found that the Respondents had attempted, through an entity in which Broker had an interest, to purchase property listed by the Respondents without making full disclosure or obtaining the approval of the owner/seller. The Commission also found that the Respondents advanced funds on behalf of the purchaser, which was unable to qualify for a loan, and failed to deposit \$1,000 earnest money into a trust account. The Commission proposes to revoke Broker's broker license and reinstate his sales associate license, impose a \$3,000 fine (\$1,000 each for three violations), and order Broker to complete 24 hours of remedial education courses. The Commission further proposes to suspend LLC's broker license for six months and impose a \$3,000 fine (\$1,000 each for three violations).

The Oklahoma Real Estate License Code authorizes the Commission to "upon showing good cause, impose sanctions" on licensees. 59 O.S.Supp.2019, § 858-312. These sanctions can include probation, suspension, revocation, or imposition of fines. 59 O.S.2011, § 858-208(6). Good cause for sanctions includes "[d]isregarding or violating any provision of the Oklahoma Real Estate License Code or rules promulgated by the Commission," and "[a]ny other conduct which constitutes untrustworthy, improper, fraudulent, or dishonest dealings." 59 O.S.Supp.2019, § 858-312(8), (9). The Code prohibits "offering, loaning, paying, or making it appear to have been paid, a down payment or earnest money deposit for a purchaser . . . in connection with a real estate transaction." *Id.* § 858-312(22). In addition, Commission rules define "untrustworthy, improper, fraudulent, or dishonest dealings," which are sanctionable under the Code, to include a licensee purchasing property through an entity in which the licensee has an interest if the property is listed with the licensee or the licensee's firm, unless the licensee first makes full disclosure to, and obtains the approval of, the property owner. OAC 605:10-17-4(2). Based on the foregoing, the Commission may reasonably believe the proposed action is necessary to deter future violations.

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's policy to uphold standards of professionalism and integrity among real estate agents.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



ETHAN SHANER
DEPUTY GENERAL COUNSEL