



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-138A

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

March 7, 2017

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 in Board case U-2014-009. The proposed action is to impose a \$923 fine on an unlicensed agent of a property management company and a \$923 fine on the property management company, for a total administrative fine of \$1,846.00. Neither the business entity, nor its agent were licensed to engage in real estate activities when the agent solicited owners of properties for rent or lease, solicited for prospective tenants, and received commissions from these transactions. The amount of the proposed administrative fine is based on the amount that the Commission has determined the unlicensed agent received in commission for the unlicensed activities.

Oklahoma law prohibits “any person” from “act[ing] as a real estate licensee . . . unless the person shall have been licensed to do so under the Oklahoma Real Estate License Code.” 59 O.S.2011, § 858-301. Business entities must also be so licensed. *Id.* § 858-305(A). The Oklahoma Real Estate License Code defines a “[l]icensee” as “any person who performs any act, acts or transactions set out in the definition of a broker and licensed under the Oklahoma Real Estate License Code.” 59 O.S.2011, § 858-102(11). The Code further defines the term “real estate broker” as “any person, partnership, association or corporation . . . who for a fee, commission or other valuable consideration, or who with the intention or expectation of receiving or collecting a fee, commission or other valuable consideration, lists, sells or offers to sell, buys or offers to buy, exchanges, rents or leases any real estate, or who negotiates or attempts to negotiate any such activity, or solicits listings of places for rent or lease, or solicits for prospective tenants, purchasers or sellers, or who advertises or holds himself out as engaged in such activities[.]” 59 O.S.2011, § 858-102(2). Oklahoma law further provides that after notice and a hearing, the Oklahoma Real Estate Commission may impose an administrative fine of not more than \$5,000, or the amount of the commission or commissions earned, whichever is greater, for each violation of the Oklahoma Real Estate License Code due to unlicensed activity. 59 O.S.2011, § 858-401. Statutes further authorize the Commission to discipline any person for paying a commission or other valuable consideration to any person for acting as a real estate licensee without having a license. *See* 59 O.S.2011, § 858-312(14). The action is intended to advance the policies that associates must only act on behalf of brokers and receive compensation from brokers in addition to the requirement that all entities and

persons conducting real estate broker activities be licensed. The Board may reasonably believe that a moderate fine is necessary to prevent 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 of Oklahoma's policies requiring real estate associates to act on behalf of real estate brokers and requiring licensure of all real estate brokers.

A handwritten signature in black ink that reads "Mike Hunter". The signature is written in a cursive, slightly slanted style.

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA