



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2015-179A

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

November 23, 2015

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. The proposed action is to summarily suspend the license of David Nottingham, a licensed real estate broker, and two licensed broker entities—Home Finders of Lawton, Inc. and Nottingham Realty, Inc.—engaged in property management activities on behalf of landlords. The suspension would remain in effect pending further proceedings over whether the licensee misappropriated client funds and failed to produce trust account bank statements when requested by the Commission. Numerous landlord clients of the licensee complained that they had not received rent payments for the month of November, and evidence indicates that the licensee’s trust accounts contain substantially less funds than they should based on estimates of security deposits and monthly rent payments that should be held in those accounts.

Oklahoma law authorizes the Commission to, “upon showing good cause, impose sanctions” on licensees. 59 O.S.2011, § 858-312. Good cause includes “[f]ailing, within a reasonable time, to account for or to remit any monies . . . coming into possession of the licensee which belong to others ” and “[c]ommingling with the licensee’s own money or property the money or property of others which is received and held by the licensee.” *Id.* § 858-312(6), (16). The Commission’s administrative rules clarify that compliance with a licensee’s statutory obligations with respect to trust accounts requires maintaining all client funds in the trust account, not diverting those funds, and not including licensee funds in it “except amounts sufficient to insure the integrity of the account and cover any charges made by the financial institution.” OAC 605:10-13-1(a), (b). Further, the licensee must maintain certain records about trust accounts and deliver them over to the Commission upon request. OAC 605:10-13-1(e), (k), (l); 605:10-17-4(18), (23).

The action seeks to enforce these requirements, which are intended to protect clients of licensed real estate brokers from having funds misappropriated. A temporary suspension may be necessary when potential misappropriations cover significant sums and the suspension will ensure that additional misappropriation does not occur while the Commission continues to investigate and gather facts.

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 ensuring that real estate brokers do not misappropriate client funds.

A handwritten signature in black ink, appearing to read "Scott Pruitt", with a long horizontal stroke extending to the right.

E. Scott Pruitt
Attorney General of Oklahoma