

S/N 2/2022 – Bringing Disrepute to the Industry by Dishonestly Amending the Exclusive Estate Agency Agreement Without the Clients’ Knowledge in Attempt to Claim a Commission

Facts of Case

The Respondent was engaged by the Clients to assist them with the sale of their old HDB unit (the “**Old Unit**”) and the search for and eventual purchase of a bigger HDB unit (the “**New Unit**”).

On 5 July 2019, the Respondent and the Clients signed an Exclusive Estate Agency Agreement for the Sale of Residential Property (the “**Original EEAA**”) which was in relation to the sale of the Old Unit. Despite numerous requests and reminders by the Clients, the Respondent did not provide a copy of the Original EEAA to them.

While the sale of the Old Unit was eventually handled by another registered salesperson, the Respondent did represent the Clients in the search for and eventual purchase of the New Unit. Sometime between 5 July 2019 and 17 February 2020, without the Clients’ knowledge, the Respondent dishonestly amended the Original EEAA into an ostensibly different Exclusive Estate Agency Agreement (the “**Amended EEAA**”), such that:

- (a) The agreement date in the Original EEAA was amended from 5 July 2019 to 8 September 2019, which was the date in which an Option to Purchase in respect of the New Unit was issued, in the Amended EEAA;
- (b) The address of the property in the Original EEAA was amended from the address of the Old Unit to the address of the New Unit in the Amended EEAA;
- (c) The expected sale price in the Original EEAA was amended from S\$650,000 to S\$538,000, which was the agreed purchase price of the New Unit, in the Amended EEAA;
- (d) The Original EEAA, which did not provide for any commission payable, was amended to include the commission payable of S\$5,756.60 at the rate of 1.07% in the Amended EEAA;
- (e) The Original EEAA, which did not state any date next to the respective signatures at the end of the agreement, was amended to include the date of 8 September 2019 next to the respective signatures at the end of the agreement in the Amended EEAA.

The Amended EEAA continued to bear the Respondent’s Clients’ signatures in the same position as they were in the Original EEAA.

Note: This case was referred to a CEA Disciplinary Committee (DC) after the operationalisation of the Estate Agents (Amendment) Act 2020 on 30 July 2021. With the Act amendments, the maximum financial penalty for disciplinary breaches has been raised and a DC can impose a higher financial penalty on errant offenders.

The Respondent had also dishonestly, without the knowledge of the Clients, completed the Customer's Particulars Form (the "**Form**") annexed to the Salesperson's Checklist on Customer Due Diligence (the "**CDD**") and affixed the Clients' signatures on the said Form.

The Respondent relied on the Amended EEAA and the CDD, among other documents, in an attempt to claim a commission amounting to S\$5,756.60 for the work done in representing the Clients in the purchase of the New Unit.

A tax invoice was issued to the Clients who disputed the commission claim and sought documents from the Respondent evidencing the same. The Respondent furnished the Amended EEAA to the Clients without informing them that he had amended the Original EEAA. The Clients noticed certain discrepancies including the title of the Amended EEAA which inaccurately stated that the agreement was in respect of the sale of the New Unit when it was a purchase made by them.

The Respondent attempted to cover up his mistake by claiming that it was an oversight and had also attempted to mislead the Clients by alleging that they had signed the Amended EEAA on an iPad device at the same time they signed the Option to Purchase for the New Unit.

On 19 February 2020, the Respondent abruptly informed the Clients that he was no longer seeking payment of the commission and sought to close the matter. On 20 February 2020, the Respondent apologised to the Clients, sought their forgiveness and pleaded with them not to report the matter to CEA.

On 2 March 2020, the Respondent was suspended internally by the Estate Agent he was registered under for two months and was required to attend three Continuing Professional Development courses that covered the Code of Ethics and Professional Client Care during the suspension period.

The Clients were informed by the Estate Agent that the commission payment of S\$5,757.60 was waived off.

Charges

The Respondent faced the following three (3) Charges:

Charge 1 (Taken into Consideration)

For failing to provide the Clients with a copy of the signed EEAA in respect of the Old Unit either immediately or as soon as possible after signing, in contravention of paragraph 8(4) of the Code of Ethics and Professional Client Care.

Charge 2 (Proceeded)

For bringing discredit or disrepute to the estate agency industry by dishonestly, and without the Clients' knowledge, amending an Exclusive Estate Agency Agreement

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("Original EEAA") that was made in respect of the sale of an old residential property, such that the amended version of the Original EEAA was ostensibly in respect of the purchase of a new residential property unit at a different sale price and ostensibly bore an agreed commission rate and quantum, with the Clients' signatures in the same position as they were originally found in the Original EEAA, and relying on the Amended EEAA in an attempt to claim a commission in the amount of S\$5,756.60 from the Clients, in contravention of paragraph 7(1) read with paragraph 7(2)(a) of the Code of Ethics and Professional Client Care.

Charge 3 (Taken into Consideration)

For bringing discredit or disrepute to the estate agency industry by dishonestly, and without the Clients' knowledge, affixing their signatures onto the Customer's Particulars Form (the "Form") annexed to the Salesperson's Checklist on Customer Due Diligence, and relying on the Form in an attempt to claim a commission in the amount of S\$5,756.60 from the Clients, in contravention of paragraph 7(1) read with paragraph 7(2)(a) of the Code of Ethics and Professional Client Care.

Outcome

A plea bargain between the Respondent and CEA was reached whereby CEA proceeded on Charge 2 which the Respondent agreed to plead guilty to and was convicted of, and with Charges 1 and 3 taken into consideration for the purposes of sentencing.

The Disciplinary Committee imposed a financial penalty of S\$7,000 and a suspension of 5 months in respect of the proceeded charge. Fixed costs of S\$2,000 was imposed on the Respondent.