

S/N 10/2021 – Doing a Deceitful Act That May Bring Discredit or Disrepute to the Estate Agency Trade or Industry by Creating and Submitting a Fictitious OTP to HDB to Apply for a Valuation Report

Facts of Case

The Respondent was at all material times a registered salesperson.

The Respondent was referred to the Seller through another salesperson who was unable to assist the Seller in the sale of his HDB Property. During discussions, the Seller informed the Respondent that he wanted to sell the Property at \$580,000. After doing some calculations, the Respondent advised the Seller that there would be no net loss if the Property was sold at \$550,000 and it would be a positive sale of the Property was sold at \$580,000. The Seller agreed that he would pay the Respondent a commission of 2% of the sale price of the Property and gave the Respondent the keys to the Property for the conduct of viewings. The Respondent then began marketing the Property for sale at \$580,000.

After marketing the Property for about 4 months from June 2019 to October 2019. The Respondent discussed with the Seller to consider reducing his asking price of \$580,000 as there were no buyers willing to pay the Seller's asking price, but the Seller was not amenable to it.

On 9 October 2019, the Respondent informed the Seller that many potential buyers were concerned about the Cash-Over-Valuation (COV) amount which they would have to pay in cash to HDB if their offer price was more than the valuation of the Property. The Seller asked the Respondent if it was possible to value the Property and the Respondent suggested that it was possible to find someone to pose as a buyer to sign a fake Option to Purchase (OTP) and submit the OTP to HDB to apply for a valuation report. The Respondent also informed the Seller that the valuation would cost \$120 and it was estimated that the valuation could be obtained within 1 week. He also explained that the Property cannot be sold within the next 21 days after submitting the application for valuation but interested buyers could continue to view the Property. The Seller agreed with the suggestion and paid the Respondent \$120 to apply for the valuation.

On or around 10 October 2019, the Respondent prepared an OTP dated 10 October 2019 with the purchase price of \$535,000 (the "fake OTP"). He indicated himself as the buyer and stated his own NRIC number in the OTP. He also signed off as the Seller and submitted the fake OTP to HDB. The Respondent did not obtain the Seller's consent to sign off on the fake OTP before submitting the fake OTP to HDB. Subsequently, HDB's appointed valuer conducted the valuation of the Property on 15 October 2019 and valued the Property at \$525,000.

After receiving the valuation report from HDB, the Respondent informed the Seller of the valuation and the Seller agreed to reduce his asking price to \$535,000. The Seller then told the Respondent to quickly find buyers who were willing to pay a COV of \$10,000.

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Without obtaining the Seller's consent, the Respondent then sent a screenshot of the valuation price to another salesperson who was representing a pair of potential Buyers who had viewed the Property previously. The Respondent informed the Buyers' salesperson that the Seller wished to sell the Property at \$535,000 and asked if the Buyers were willing to purchase the Property at \$535,000. After some negotiations through the Buyers' salesperson, the Buyers eventually made an offer to purchase the Property at \$525,000 so as to avoid paying COV.

The Seller eventually agreed to sell the Property to the Buyers at \$525,000 after confirming with the Central Provident Fund (CPF) Board that he did not have to repay his CPF with cash if the Property was sold below \$550,000 and confirming with the Respondent that the sale of the Property at \$525,000 was not an undervalued sale. Thereafter, the Respondent prepared an OTP which was signed by the Seller and exercised by the Buyers on 9 November 2019. The Property was successfully sold at \$525,000 with no COV payable by the Buyers.

In the normal purchase of a resale HDB flat, the purpose of obtaining HDB's valuation of the HDB flat was to allow the buyer to determine how much the buyer could use from his CPF savings and/or the value of the housing loan that the buyer could take to finance the purchase of the flat. The valuation would also allow the buyer to determine the amount of cash they would have to pay if the purchase price offered by the buyer is higher than the valuation of the flat. Under HDB's terms and conditions for a request for valuation, the request for valuation should only be made by a buyer who had been granted an OTP by the seller of the flat. By submitting the fake OTP to HDB, the Respondent had attempted to circumvent HDB's policy on obtaining valuation reports of HDB flats which caused HDB to waste precious time and resources to launch an investigation when they discovered the fake OTP.

By revealing the valuation of the Property to the Buyers' salesperson without the Seller's consent, the Respondent had also prejudiced the Seller's interest and reduced the Seller's chances of obtaining the highest possible price for the Property when negotiating the sale price as the Buyers who knew the exact valuation of the Property were unlikely to offer more than what the Property was worth especially since they wanted to avoid paying any COV. The Seller had also agreed to the sale without knowing that the Buyers were fully aware of the valuation of the Property and was of the impression that the offer of \$525,000 was the best price he could get for the Property.

Charges

The Respondent faced the following two charges:

Charge 1 (Proceeded)

For doing a deceitful act that may bring discredit or disrepute to the estate agency trade or industry by submitting to HDB a fictitious OTP in respect of the Property which was created by the Respondent in order to apply for a valuation report from HDB, in

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contravention of paragraph 7(1) read with paragraph 7(2)(a) of the Code of Ethics and Professional Client Care.

Charge 2

Failing to act with fidelity to the Seller by acting against his interest by disclosing the valuation price of the Property to the Buyers' salesperson, without the Seller's consent, in contravention of paragraph 6(1) read with paragraph 6(2)(e) of the Code of Ethics and Professional Client Care.

Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to Charge 1, with Charge 2 taken into consideration for sentencing.

Charge 1: A financial penalty of \$2,500 and a suspension of 3 months.

Fixed costs of \$2,000 was also imposed on the Respondent.