

S/N 12/2022 – Marketing Units for Sale at Significantly Lower Prices than Developers’ Prevailing Prices

Facts of Case

The Respondent’s estate agent was appointed by the developers of 7 projects as the marketing agent for these projects. Pricing instructions for these projects were obtained directly from the developers and disseminated to salespersons who were interested to market the projects, including the Respondent.

Marketing of Project A

In mid-July 2020, the Respondent caused 3 advertisements to be made for Project A on an online property portal. In these advertisements, the prices marketed by the Respondent were different and significantly lower than the prices provided by Project A’s developer at the material time for the respective unit sizes. The difference between the developer’s prices and the Respondent’s advertised prices are set out below:

- (a) Advertisement 1: \$ 55,100 to \$ 83,700.
- (b) Advertisement 2: \$ 34,400 to \$ 83,000.
- (c) Advertisement 3: \$ 46,200.

Marketing of Project B

In early August 2020, the Respondent caused 3 advertisements to be made for Project B on an online property portal. In these advertisements, the prices marketed by the Respondent were different and significantly lower than the prices provided by Project B’s developer at the material time for the respective unit sizes. The difference between the developer’s prices and the Respondent’s advertised prices are set out below:

- (a) Advertisement 4: \$ 102,000 to \$ 436,700.
- (b) Advertisement 5: \$ 85,000 to \$ 91,000.
- (c) Advertisement 6: \$ 384,300 to \$ 776,900.

Marketing of Project C

In mid-August 2020, the Respondent caused 1 advertisement to be made for Project C on an online property portal. In the advertisement, the price marketed by the Respondent was different and significantly lower than the price provided by Project C's developer at the material time for the respective unit size. The difference between the developer's price and the Respondent's advertised price is set out below:

- (a) Advertisement 7: \$ 92,688.

Marketing of Project D

In mid-September 2020, the Respondent caused 5 advertisements to be made for Project D on an online property portal. In these advertisements, the prices marketed by the Respondent were different and significantly lower than the prices provided by Project D's developer at the material time for the respective unit sizes. The difference between the developer's prices and the Respondent's advertised prices are set out below:

- (a) Advertisement 8: \$ 12,000 to \$ 64,000.
- (b) Advertisement 9: \$ 21,000.
- (c) Advertisement 10: \$ 12,000 to \$ 53,000.
- (d) Advertisement 11: \$ 11,000 to \$ 59,000.
- (e) Advertisement 12: \$ 40,000 to \$ 136,000.

Marketing of Project E

In mid-September 2020, the Respondent caused 3 advertisements to be made for Project E on an online property portal. In these advertisements, the prices marketed by the Respondent were different and significantly lower than the prices provided by Project E's developer at the material time for the respective unit sizes. The difference between the developer's prices and the Respondent's advertised prices are set out below:

- (a) Advertisement 13: \$ 11,000 to \$ 32,000.
- (b) Advertisement 14: \$ 29,000 to \$ 63,000.
- (c) Advertisement 15: \$ 49,000 to \$ 83,000.

Marketing of Project F

In mid-September 2020, the Respondent caused 4 advertisements to be made for Project F on an online property portal. In these advertisements, the prices marketed by the Respondent were different and significantly lower than the prices provided by Project F's developer at the material time for the respective unit sizes. The difference between the developer's prices and the Respondent's advertised prices are set out below:

- (a) Advertisement 16: \$ 68,400 to \$ 161,500.
- (b) Advertisement 17: \$ 42,600 to \$ 128,400.
- (c) Advertisement 18: \$ 75,500 to \$ 130,900.
- (d) Advertisement 19: \$ 23,200 to \$ 50,600.

Marketing of Project G

In early February 2021, the Respondent caused 6 advertisements to be made for Project G on an online property portal. In these advertisements, the prices marketed by the Respondent were different and significantly lower than the prices provided by Project G's developer at the material time for the respective unit sizes. The difference between the developer's prices and the Respondent's advertised prices are set out below:

- (a) Advertisement 20: \$ 69,000 to \$ 160,000.
- (b) Advertisement 21: \$ 47,000 to \$ 182,000.
- (c) Advertisement 22: \$ 60,000 to \$ 292,000.
- (d) Advertisement 23: \$ 73,000 to \$ 266,000.
- (e) Advertisement 24: \$ 46,000 to \$ 238,000.
- (f) Advertisement 25: \$ 95,000 to \$ 169,000.

The Respondent failed to ensure that the advertised prices in his advertisements were in accordance with the prevailing developers' prices at the material time. Instead, he listed prices which were significantly lower, which would likely attract more enquiries from interested consumers who were drawn by the advertised prices. Such misconduct is misleading for consumers and also unfair to other salespersons who had marketed the projects at accurate (but higher) prevailing developers' prices.

Charges

The Respondent faced the following 25 charges:

Charges 1 to 25

For causing the following advertisements to be made for units in projects that contained a claim or information that was inaccurate and/or misleading, by stating prices in the advertisements that were lower than the corresponding prices provided by the developer of the respective projects at the material time, in breach of paragraph 12(4)(a) of the Code of Ethics and Professional Client Care:

- (a) Charges 1 to 3 (Proceeded on Charge 1): Advertisements 1 to 3 – Project A.
- (b) Charges 4 to 6 (Proceeded on Charge 4): Advertisements 4 to 6 – Property B.
- (c) Charge 7 (Proceeded): Advertisement 7 – Property C.
- (d) Charges 8 to 12: Advertisements 8 to 12 – Property D.
- (e) Charges 13 to 15: Advertisements 13 to 15 – Property E.
- (f) Charges 16 to 19: Advertisements 16 to 19 – Property F.
- (g) Charges 20 to 25 (Proceeded on Charge 25): Advertisements 20 to 25 – Property G.

Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to 4 charges (i.e. Charges 1, 4, 7 and 25), while the remaining 21 charges (i.e. Charges 2, 3, 5, 6 and 8 to 24) were taken into consideration for purposes of sentencing.

The DC imposed the following financial penalties and disciplinary orders on the Respondent:

Charges 1, 4, 7 and 25: A financial penalty of \$ 3,000 and a suspension of 4 months for each charge.

The suspension periods were ordered to run concurrently. The total sentence imposed was a financial penalty of \$ 12,000 and a suspension of 4 months.

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