Avoiding Potential Conflicts of Interests

You are the seller. If your salesperson introduces a buyer who is his wife, does he need to disclose the relationship to you?

You are a buyer. If your salesperson obtains a referral fee from the bank that he introduces you to apply a bank loan, does he need to disclose the referral fee to you?

The answers to both questions are “YES”.

Salespersons have a duty to avoid any potential conflicts of interests that may not be in the best interests of their clients. Your salesperson must declare in writing to you:

- any potential conflicts of interest; and
- all external sources of income/referral fees that will be received with respect to the property transaction.

Disclosure Requirements

Estate agents and salespersons are required to disclose in writing any conflict or potential conflict of interests to their client. They should disclose all relationships and positions openly, fairly and immediately when they arise. Examples of such disclosures are:

- The salesperson of the other party to a transaction is related to the salesperson of the client, e.g. if the other salesperson is the spouse or family member of the salesperson.
- The other party to a transaction is working with the same estate agent of the salesperson of the client.
- The other party to a transaction is related to the salesperson of the client.
- The salesperson serving the purchaser or tenant who is not paying commission, is receiving any commission, reward, fee, “ang pow”, payment or other benefit from the estate agent or salesperson of the other party or any other person.

Financial dealings between salespersons and clients are discouraged, including loans from salespersons to their clients, as that may lead to conflict of interest.

If a conflict of interest only arises or is made aware to the salesperson or estate agent after the signing of the agreement, the conflict or potential conflict of interest must be immediately disclosed in writing to the client. Upon such disclosure, the estate agent and salesperson may continue to act for the client only if the client, being fully informed, consents in writing to the estate agent and salesperson continuing to act for him.
Case Study 1

Salesperson K attended to a couple during the viewing and showed them around the property. K also introduced them to the sellers. K requested the couple to appoint her as their salesperson and they did so.

After the viewing, the couple decided to buy the property. K assisted to complete paperwork but failed to declare her interests which were in conflict or potential conflict with those of the couple (her clients) as one of the co-sellers was her husband and the other two co-sellers were her parents-in-law.

CEA had charged her and the Disciplinary Committee imposed a suspension of three months and a financial penalty of $3,000 for this charge.

Case Study 2

The sellers had appointed Salesperson S to sell their property, on a non-exclusive basis. S did not declare his interests that he would be getting half of the commission earned by his partner who was also representing the buyers in the sale of their own property.

The sellers (S’ clients) were therefore not aware that S had an interest in the particular buyers successfully concluding the transaction nor aware of the true amount that S was going to earn by acting for them in the sale of their property. Though such an arrangement was in potential conflict with the interests of his clients (the sellers), S had continued to act for them in closing the sale transaction with the buyers.

CEA had charged him and the Disciplinary Committee imposed a suspension of six months and a financial penalty of $6,000 for such charge.

Your salesperson has a duty to promote and safeguard your interests in a property transaction. You must also play your part as a responsible consumer. Co-operate with your salesperson by providing accurate and current information. In this way, your salesperson can assess if there may be any potential conflict of interest to act for you in the property transaction. In addition, the information provided by you can also help in eligibility checks and financial planning.