

S/N 4/2017 – Facilitating a Rental Transaction Having Reason to Believe That The Property Might Be Used for Vice Related Activities and Failing to Conduct Work with Due Diligence and Care

Facts of Case

The Respondent was engaged by X to look for a place to rent, allegedly for his workers.

The Respondent found a suitable condominium unit (the “**First Property**”) and brought X to view the First Property. X decided to rent the First Property. The Respondent prepared a Letter of Intent to the landlord of the First Property (the “**First Landlord**”) and signed the Letter of Intent on behalf of the tenant. X then sent copies of the work passes of 4 work pass holders through his mobile phone to the Respondent, who then forwarded the copies to the First Landlord’s salesperson. The work pass holders were the intended tenant and occupants of the First Property. The Respondent also passed a cheque for the lease deposit to the First Landlord’s salesperson.

The First Landlord’s salesperson proceeded to check the validity of the work passes and found out that one of the work passes had expired. To avoid the First Landlord pulling out of the transaction, the Respondent paid \$500 as compensation to the First Landlord on behalf of X. The Respondent also informed the First Landlord’s salesperson that the work pass holder who had an expired work pass would be substituted with another work pass holder.

The Respondent then met X at a coffeeshop to pass him the tenancy agreement for the First Property. While at the coffeeshop, the Respondent overheard a conversation between X, his wife and their friends in which they mentioned their intention to turn the First Property into a lodging house for prostitutes. Despite hearing this, the Respondent did not attempt to inform the First Landlord or cease the transaction. The Respondent had no explanation for facilitating such a transaction which could result in the First Property being misused for vice-related activities.

The next day, X handed the tenancy agreement for the First Property to the Respondent with a forged tenant’s signature. The First Landlord then signed off on the same tenancy agreement. For this transaction, the Respondent collected \$1,550 in commission from X.

At or around the same time, X also told the Respondent that he wanted to rent another condominium unit. The Respondent found another suitable condominium unit (the “**Second Property**”) and brought X’s wife to view the Second Property. X’s wife instructed the Respondent to make an offer for the Second Property. The Respondent then passed the landlord of the Second Property (the “**Second Landlord**”) a deposit for the lease. The Respondent also provided copies of work passes of 4 work pass holders who were the intended tenant and occupants to the Second Landlord’s

salesperson. 3 of the 4 work pass holders were the same work pass holders who were listed as the intended tenant and occupants of the First Property.

Despite so, the Respondent proceeded to close the lease transaction for the Second Property. The Second Landlord signed off on a tenancy agreement for the lease of the Second Property with a forged tenant's signature.

In or around a week after both leases commenced, both landlords discovered that their properties were not occupied by the work pass holders and proceeded to repossess the properties. The work pass holders were unaware that their work passes were used to lease the First Property or the Second Property. The Second Property was also raided by the police and was likely to have been used for vice related activities.

Inconvenience was caused to both landlords.

At all material times, the Respondent did not conduct all the due diligence checks listed in Section 57B(3) of the Immigration Act (Cap 133) for both property transactions:

- a) To inspect the original work passes;
- b) To check the original work passes to ascertain if the particulars on the work passes correspond with the particulars in the passports of the work pass holders; and
- c) To check with: -
 - (i) The Controller of Work Passes that the work passes were valid at the material time; or
 - (ii) The employers of the work pass holders to verify if they are employed with the employers and that the particulars on the work passes correspond with the records of the employers.

The Respondent's non-compliance with due diligence checks required under the Immigration Act perpetuated the misuse of work passes.

The DC noted that the Respondent was genuinely remorseful and was previously a salesperson of good standing. The Respondent pleaded guilty at the earliest opportunity.

Charges

The Respondent faced the following 3 charges:

Charge 1

Failing to conduct her work with due diligence and care, in particular, failing to take reasonable precautions and do reasonable acts to ensure that no law is infringed by any person, by facilitating the rental transaction of the First Property without first carrying out due diligence checks provided in Section 57B(3) of the Immigration Act on the work pass holders who were the intended tenant and

occupants of the First Property, in contravention of paragraph 5(1) read with paragraph 5(2)(b) of the Code of Ethics and Professional Client Care.

Charge 2 (Proceeded)

Doing an act that may bring discredit or disrepute to the estate agency trade or industry by facilitating the rental transaction of the First Property despite having reason to believe that the property would be used for vice related activities, in contravention of paragraph 7(1) of the Code of Ethics and Professional Client Care.

Charge 3

Failing to conduct her work with due diligence and care, in particular, failing to take reasonable precautions and do reasonable acts to ensure that no law is infringed by any person, by facilitating the rental transaction of the Second Property without first carrying out all the due diligence checks provided in Section 57B(3) of the Immigration Act on the work pass holders who were the intended tenant and occupants of the Second Property, in contravention of paragraph 5(1) read with paragraph 5(2)(b) of the Code of Ethics and Professional Client Care.

Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to Charge 2 while Charges 1 and 3 were taken into consideration for sentencing purposes.

The DC imposed the following financial penalty and disciplinary order on the Respondent:

Charge 2: A financial penalty of \$2,000 and a suspension of 3 months

Fixed costs of \$1,000 were imposed on the Respondent.