

S/N 17/2023 – Bypassing another Salesperson to Facilitate Transaction and Misrepresenting to the Landlord

Facts of Case

In or around early to mid-August 2020, the Respondent came across a listing by Salesperson C on a property listing website for the lease of a ground level shophouse (the “**Property**”). Salesperson C represented the landlord of the Property (the “**Landlord**”). At the time, the Respondent was searching for suitable shophouses for his friend L who operated a food and beverage establishment and was looking to relocate.

On 15 August 2020, the Respondent contacted Salesperson C via WhatsApp and requested for a viewing of the Property. Salesperson C then arranged for the Respondent and L to view the Property on 17 August 2020.

On 17 August 2020, the viewing was attended by the Respondent, L, an acquaintance of L, as well as Salesperson C. During the viewing, L informed Salesperson C that he was looking for a place to relocate his existing business. Parties discussed the issue of rental fees, size of the unit and period of rental.

After the viewing, the Respondent continued to contact Salesperson C for more information regarding the Property, such as the floor plan and the approved usage of the Property. The Respondent then informed Salesperson C that he would contact him should he require anything else, but there was no further correspondence from the Respondent to Salesperson C.

Sometime prior to 25 August 2020, the Respondent contacted an acquaintance, Y, to enquire if Y knew of anyone who was associated with the incumbent tenant at the Property (which was also a food and beverage establishment at that time). When Y replied in the affirmative, the Respondent further requested Y to help him obtain the contact details of the Landlord (i.e. Salesperson C’s client) with the purported reason that he had a client who might be interested in the Property.

On 25 August 2020, the Respondent, after having successfully obtained the Landlord’s contact details, emailed the Landlord directly and claimed that he had obtained the Landlord’s email from the previous tenant and that he knew of the Property previously because of the incumbent tenant. This email did not mention Salesperson C or the viewing that happened on 17 August 2020. The Respondent also stated in the email that his client was interested in the Property and asked if he could facilitate the deal if the Landlord did not have an exclusive agent for the Property.

Later on the same day, the Respondent sent a further email asking the Landlord for the keys to the Property to show to his client, to which the Landlord agreed. The Respondent then collected the keys to the Property from the Landlord.

On 26 August 2020, the Respondent contacted the Landlord via email to inform her that his client was interested in the Property and conveyed L’s offer to lease the Property at a monthly rent of \$6,000 for a 2-year lease period, with 2 years’ extension and a 4 month rent-free period.

After the Landlord rejected the offer, rental negotiations continued until sometime in mid-September 2020. On 18 September 2020, the Respondent and the Landlord entered into a commission agreement in which the Landlord agreed to pay \$10,700 to the Respondent’s estate agent as commission.

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.

On 21 September 2020, the Landlord and L entered into a tenancy agreement for the lease of the Property at a monthly rent of \$8,132 for a period of 2 years commencing on 1 October 2020.

Out of the \$10,700 commission monies paid to the Respondent's estate agent by the Landlord, the Respondent received his share of \$7,000 as commission for facilitating the transaction on behalf of the Landlord.

In or around mid-September 2020, the Landlord informed Salesperson C to cease marketing the Property as it had already been tenanted out. After receiving the Landlord's instructions, Salesperson C also ceased correspondences with the Landlord.

In or around May 2021, when Salesperson C was in the Property's vicinity, he chanced upon the Property and noticed the signboard of L's food and beverage establishment at the Property. On 7 May 2021, Salesperson C contacted the Respondent via WhatsApp to ask why the Respondent had completed the transaction without going through him. The Respondent replied the next day that he had been referred directly by his contacts to represent the Landlord.

Charges

The Respondent faced the following 2 charges:

Charge 1 (Proceeded)

For doing an act that may bring discredit or disrepute to the estate agency trade or industry when he bypassed Salesperson C, the initial salesperson of the Landlord, when he facilitated the Landlord's lease of the Property to L, in contravention of paragraph 7(1) of the Code of Ethics and Professional Client Care (the "**Code**").

Charge 2

For failing to act ethically, honestly, fairly and in a reasonable manner to the Landlord of the Property when he misrepresented to the Landlord on 25 August 2020 that he knew of the Property because of his client and the Landlord's previous tenant, when in fact he first knew of the Property through Salesperson C's listing, the initial salesperson of the Landlord whom he contacted on 15 August 2020 for a viewing of the Property, in contravention of paragraph 6(3) read with paragraph 6(4)(c) of the Code.

Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to Charge 1, with the remaining charge (i.e. Charge 2) taken into consideration for sentencing.

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

Charge 1: A financial penalty of \$4,000 and a suspension of 4 months

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