

S/N 16/2022 – Criticising Professional Services and Conduct of another Salesperson, Sending Offensive or Threatening Messages to another Salesperson and Submitting Fabricated Screenshots of Messages to Estate Agent

Facts of Case

On or around 7 July 2017, the Respondent was engaged by the owner of a Housing and Development Board (“HDB”) flat (the “Flat”) on a non-exclusive basis to market the Flat for sale.

In or around August 2017, C (who was a registered salesperson), was assisting her relative (“G”) in her own personal capacity to purchase a HDB flat. C saw the Respondent’s advertisement of the Flat and contacted the Respondent on 12 August 2017 to arrange for a viewing the next day. This first viewing was attended by C and G. After the viewing, an offer of \$292,000 was made for the Flat, which was communicated to the Respondent. The Respondent initially purported to accept the offer on his client’s behalf, but subsequently backtracked and informed C that the Flat could only be sold at \$300,000. No deal was therefore made through the Respondent.

As G was still interested in the Flat, C’s daughter (“X”) contacted the Respondent separately and arranged for another viewing of the Flat on or around 18 August 2017. This second viewing was attended by X, her boyfriend, and another two relatives. During the viewing, the Respondent represented to X that buyers needed to engage salespersons in order to handle the documentation involved in a property transaction, as the relevant documentation was very complicated and X and/or G would be unable to manage such documentation on their own.

On or around 18 August 2017 as well, the Flat’s owner separately engaged Salesperson Y on a non-exclusive basis to market the Flat. Upon Salesperson Y’s engagement, she proceeded to advertise the Flat for sale as well.

On or around 22 August 2017, C was informed by X that another advertisement for a property similar to the Flat had been listed by Salesperson Y. C then proceeded to contact Salesperson Y and, upon ascertaining that Salesperson Y’s advertisement related to the Flat, informed Salesperson Y that she had previously viewed the Flat with the Respondent but a sale had not materialised. Salesperson Y then informed the owner and her son (“V”) that she had been contacted by C and that C seemed to have previously viewed the Flat. It was then arranged for C and G to view the Flat at or around 7.30 pm on the same day.

At this viewing, the owner and V were also present. Parties entered into negotiations for the sale of the Flat to G, and it was eventually agreed that G would purchase the Flat for \$296,000. The Option to Purchase was issued on or around 24 August 2017.

On or around 26 August 2017, the Respondent was informed by V and/or the owner that the Flat had been sold and that he was no longer required to market the Flat.

The Respondent’s Messages via WhatsApp

Between 26 August 2017 and 1 September 2017, the Respondent sent various messages to a WhatsApp group (of which the Respondent, the owner and V were participants). These messages included statements that Salesperson Y was unethical and dishonest and had allegedly told C to cover

up the truth. The purport of the messages was that Salesperson Y was unethical, dishonest and a thief who stole deals from other salespersons.

Also between 27 and 30 August 2017, the Respondent sent various WhatsApp messages to Salesperson Y, which included statements to the effect that she would be receiving “karma”, was a thief, would suffer divine retribution and that the Respondent would not let Salesperson Y off. The purport of the Respondent’s offensive or threatening messages was that he would exact revenge against Salesperson Y.

The Respondent’s Facebook Post

On or around 28 August 2017, the Respondent authored and published on his Facebook profile page a post which was accessible to the general public (the “**Facebook Post**”). Eleven persons were tagged in the Facebook Post and it was shared by 9 persons between 28 and 29 August 2017. The Facebook Post contained statements that criticised and commented on Salesperson Y’s professional services and conduct, by alleging that she was unethical, dishonest, and a thief who stole deals from other salespersons.

The Respondent continued to maintain the Facebook Post on his Facebook profile page until at least 7 September 2017, during which time he continued to respond to comments left by other parties in which he made similar allegations against Salesperson Y.

On 7 September 2017, the Respondent re-shared the Facebook Post, and continued to perpetuate his comments criticising the professional services and conduct of Salesperson Y.

The Respondent’s Facebook Messages

Between 31 August and 6 September 2017, the Respondent sent various chat messages on Facebook Messenger to one M, who was a registered salesperson at the material time and acquainted with Salesperson Y. The Respondent’s messages included sending M a link to the Facebook Post and alleging that Salesperson Y was a thief.

The Respondent’s Fabrication of WhatsApp Messages

After Salesperson Y’s estate agent lodged a complaint against the Respondent, the Respondent’s estate agent conducted internal investigations into the incident. In the course of the investigations, the Respondent submitted to his estate agent screenshots of WhatsApp messages that were purportedly exchanged with Salesperson Y.

In the Respondent’s version of the screenshots, Salesperson Y had allegedly insulted the Respondent with expletives and threatened him and his family. However, none of these messages appeared in the version of the WhatsApp messages that Salesperson Y had submitted to her own estate agent.

The Respondent’s estate agent, having taken in good faith that the Respondent’s screenshots had genuine contents, was then misled into concluding its internal investigations with a finding that Salesperson Y tampered with her version of the WhatsApp messages exchanged between herself and the Respondent.

Further investigations by CEA revealed that Salesperson Y's version of the WhatsApp messages were in fact accurate and the screenshots which the Respondent had submitted to his estate agent were in fact fabrications.

Charges

The Respondent faced the following 7 charges:

Charge 1 (Proceeded)

For failing to act ethically or in a reasonable manner towards X when he misrepresented to X that X and/or G, as prospective buyers of a HDB property, needed to engage a salesperson for the transaction as the documentation involved would be very complicated, when in fact there was no such requirement, in contravention of paragraph 6(3) read with paragraph 6(4)(c) of the Code of Ethics and Professional Client Care (the "**Code**").

Charge 2 (Proceeded)

For failing to comply with the applicable laws and practice guidelines when he criticised the professional services and conduct of Salesperson Y to V and the Flat's owner, by stating that Salesperson Y was unethical, dishonest and a thief who stole deals from other salespersons, which criticism was in contravention of Paragraph 1.3.2 of the Practice Guidelines on Conduct between Salespersons ("**PG 02-14**"), in contravention of paragraph 4(1) read with paragraph 4(2)(a) of the Code.

Charge 3 (Proceeded)

For doing an act that may bring discredit or disrepute to the estate agency trade or industry when he sent offensive or threatening WhatsApp messages to Salesperson Y, the purport of which was that she would be receiving "karma", was a thief, would suffer divine retribution, and that he would not let her off, in contravention of paragraph 7(1) of the Code.

Charge 4 (Proceeded)

For failing to comply with the applicable laws and practice guidelines, when he authored and published the Facebook Post which criticised the professional services and conduct of Salesperson Y by alleging that she was unethical, dishonest and a thief who stole deals from other salespersons, which publication and criticism were in contravention of Paragraph 1.3.2 of PG 02-14, in contravention of paragraph 4(1) read with paragraph 4(2)(a) of the Code.

Charge 5 (Proceeded)

For doing an act that may bring discredit or disrepute to the estate agency trade or industry when he re-shared the Facebook Post which criticised the professional services and conduct of Salesperson Y by alleging that she was unethical, dishonest and a thief who stole deals from other salespersons, in contravention of paragraph 7(1) of the Code.

Charge 6 (Proceeded)

For failing to comply with the applicable laws and practice guidelines when he sent messages to M over Facebook Messenger which criticised the professional services and conduct of Salesperson Y, by alleging that Salesperson Y was a thief, which criticism was in contravention of Paragraph 1.3.2 of PG 02-14, in contravention of paragraph 4(1) read with paragraph 4(2)(a) of the Code.

Charge 7 (Proceeded)

For doing an act that may bring discredit or disrepute to the estate agency trade or industry when he submitted fabricated screenshots of WhatsApp messages to his estate agent in connection with its investigation into the dispute between the Respondent and Salesperson Y, which submission was deceitful and caused his estate agent to be misled in its preparation and submission of its investigation report to CEA, in contravention of paragraph 7(1) read with paragraph 7(2)(a) of the Code.

Outcome

The Respondent claimed trial to the 7 charges. After a trial, the Disciplinary Committee (“DC”) convicted the Respondent of Charges 2 to 7. The DC found that Charge 1 was not made out on the evidence.

In sentencing, the DC noted that the Respondent’s conduct had caused his fellow salesperson considerable stress and inconvenience. The Respondent had displayed a pattern of conduct that was plainly intended to harass, intimidate and threaten his fellow salesperson by attacking her both privately and publicly on several different occasions. The Respondent’s misconduct was unbecoming of a professional salesperson, and his conduct displayed publicly on social media only serves to reduce public trust in the real estate agency industry as a whole. The Respondent also failed to show any contrition for his actions, particularly in relation to his actions relating to Charge 7.

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

Charge 2: A financial penalty of \$1,500 and suspension of 1 month.

Charge 3: A financial penalty of \$1,500 and suspension of 0.5 months.

Charge 4: A financial penalty of \$1,500 and suspension of 1 month.

Charge 5: A financial penalty of \$1,000 and suspension of 0.5 months.

Charge 6: A financial penalty of \$1,500 and suspension of 1 month.

Charge 7: A financial penalty of \$2,000 and suspension of 4 months.

The suspension periods for Charges 2 to 6 were ordered to run concurrently while the suspension period for Charge 7 was ordered to run consecutively from the suspension period for the other Charges. In total, the Respondent was therefore sentenced to a financial penalty of \$9,000 and suspension of 5 months.

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

The DC further noted that, although this was not a factor taken into consideration when arriving at the appropriate sentence to be imposed, the Respondent had consistently displayed a disregard for complying with directions and engaged in delay tactics which led to an unsatisfactory state of affairs leading up to the conduct and resolution of the trial.

Appeal

The Respondent subsequently lodged an appeal to the Appeals Board against the DC's decision on conviction in respect of Charges 2 to 7.

The appeal was dismissed in its entirety by the Appeals Board, which agreed with the DC's decision that Charges 2 to 7 were made out against the Respondent.