

## **S/N 1/2025 – Undertaking Estate Agency Work without Complying with HDB Rules and Regulations, Devising Scheme to Financially Benefit Wife’s Sole Proprietorship, Failing to Declare Conflict of Interest and Keeping Stamp Duty Difference**

### **Facts of Case**

In or around March 2021, the Respondent saw an advertisement for the lease of a 3-room Housing and Development Board (“**HDB**”) flat (the “**Property**”). The Respondent contacted the owners of the Property (“**Owners**”) and informed them that he was looking for a place for a tenant. The Owners informed the Respondent that the lease would be for 1 bedroom, with the other room locked, and the Owners would not be staying in the Property.

### **First Lease**

The Respondent knew at all material times that the Owners must stay in the Property with the tenant and occupiers during the rental period if a bedroom was rented, pursuant to HDB’s Terms and Conditions for Renting Out Bedroom(s) (the “**HDB T&Cs**”). The Respondent also knew that the Owners did not intend to stay in the Property. Nevertheless, the Respondent proceeded to bring a prospective tenant (“**Tenant A**”) to the Property for a viewing and informed Tenant A that he could use all areas of the Property except the common bedroom, which would be locked.

Tenant A agreed to rent the master bedroom. The Respondent proceeded to prepare a room rental agreement for a 1-year lease, at a monthly rent of \$1,400 (the “**First Lease**”). The Owners did not stay in the Property with Tenant A during the First Lease, and only visited the Property occasionally to clean and collect the mail. The Owners liaised with Tenant A on the lease through the Respondent, and instructed the Respondent to inform Tenant A to inform HDB that the Owners were overseas, if questioned about the Property.

For facilitating the First Lease, Tenant A paid the Respondent a commission of \$749.

### **Second Lease**

Sometime in December 2021, Tenant A expressed a desire to terminate the First Lease early. The Respondent listed the Property online to source for a replacement tenant.

In mid-December 2021, the Respondent informed the Owners that there was a prospective tenant willing to rent the Property for \$1,550 a month. The Owners were agreeable, but the prospective tenant did not lease the Property.

A few days later, another prospective tenant (“**Tenant B**”) contacted the Respondent to ask if the Property was still available for rent. The Respondent asked Tenant B if he would be agreeable to a 2-year lease and what his “best offer” was, to which Tenant B replied that he could offer a monthly rent of \$2,000.

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The Respondent informed Tenant B that the Owners would not be staying in the Property, and the common bedroom would be locked and used for storage purposes. As with the First Lease, the Respondent knew that the Owners must live in the Property during the rental period to comply with the HDB T&Cs.

Thereafter, the Respondent sent Tenant B a room rental agreement for a 2-year lease of a room in the Property, commencing from 4 January 2022, at a monthly rent of \$1,550 (the “**Second Lease**”). Before signing the room rental agreement, Tenant B asked the Respondent to confirm that the Owners would not be staying in the Property, to which the Respondent replied in the affirmative.

HDB representatives subsequently inspected the Property in late February 2023 and found that it was rented with 1 bedroom locked, and that the Owners did not reside in the Property. The Respondent told Tenant B to vacate the Property, and Tenant B moved out of the Property on 5 May 2023.

In late July 2023, HDB issued a notice informing the Owners of its intention to compulsorily acquire the Property. The Owners appealed unsuccessfully against this.

For facilitating the Second Lease, Tenant B paid a commission of \$2,033 to the Respondent.

Further, in relation to the Second Lease, the Respondent had in fact also sent Tenant B a document titled “Contract of Service”, which was an agreement for a sole proprietorship, Home4u.com Pte Ltd (“**Home4u**”), to provide furniture, fixtures and repairs in the Property for the duration of the Second Lease.

The Respondent explained to Tenant B that the Contract of Service was necessary for the maintenance of the Property, and Tenant B was to transfer the monthly rent of \$1,550 to the Owners directly, and \$350 to Home4u. Believing the Respondent, Tenant B signed both the room rental agreement and the Contract of Service for the Second Lease.

In fact, Home4u belonged to the Respondent’s wife. The bank account stated in the Contract of Service as Home4u’s bank account was also a bank account that the Respondent had control of and used for his personal matters. The Respondent did not inform Tenant B that Home4u belonged to his wife or disclose his interest in Home4u at any material time.

Consequently, over a period of 16 months, from January 2022 to April 2023, Tenant B transferred \$1,550 to the Owners’ bank account, and \$350 to Home4u’s bank account every month. In total, Tenant B paid \$5,600 to Home4u’s bank account, labouring under the impression that the monthly rent of the Property was \$1,900 (\$1,550 + \$350) and that he was required to enter into the Contract of Service with Home4u as part of the Second Lease.

In reality, there was no obligation for Tenant B to engage Home4u, nor did Home4u provide any services to Tenant B from January 2022 to April 2023.

The Respondent also did not inform the Owners about the Contract of Service, or that Tenant B’s best offer for the Second Lease was \$2,000 a month. Instead, when the Owners had asked the Respondent

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if it was possible to negotiate a higher rent for the Second Lease prior to signing the room rental agreement, the Respondent suggested to the Owners that Tenant B was only willing to pay \$1,550.

The Respondent had therefore devised and effected a scheme to enable Home4u to pocket the difference between the rent that Tenant B was willing to pay, and the rent that the Owners were willing to accept, to financially benefit Home4u, which the Respondent had an interest in.

The Respondent's scheme came to light in early May 2023, when Tenant B met the Owners for the handover of the Property. The Respondent was not present. During this meeting, it was discovered that Tenant B had been paying \$1,900 every month as rent, whereas the Owners were only receiving \$1,550.

Thereafter, Tenant B confronted the Respondent on the amount of \$350 that he had been paying to Home4u each month. The Respondent initially tried to deny responsibility, but eventually returned the sum of \$5,600 paid to Home4u after Tenant B told the Respondent that he would inform HDB and the Police if he did not receive a satisfactory explanation.

Further, the Respondent had also informed Tenant B that the stamp duty for the Second Lease was \$182 and helped Tenant B with the submission to IRAS for stamping. However, the applicable stamp duty was in fact \$148, based on the monthly rent of \$1,550 submitted by the Respondent to IRAS. The Respondent did not inform Tenant B that the actual stamp duty paid was \$148 and did not refund the difference of \$34 to Tenant B.

## **Charges**

The Respondent faced the following 5 charges:

### **Charge 1**

Undertaking estate agency work in respect of HDB flats while not complying with the applicable laws, regulations, rules and procedures that apply to transactions involving such flats, by facilitating the First Lease to Tenant A notwithstanding that the Owners would not be residing in the Property with Tenant A during the lease period, in breach of the HDB T&Cs, in contravention of paragraph 4(1) read with paragraph 4(2)(e) of the Code of Ethics and Professional Client Care (the "**Code**").

### **Charge 2 (Proceeded)**

Undertaking estate agency work in respect of HDB flats while not complying with the applicable laws, regulations, rules and procedures that apply to transactions involving such flats, by facilitating the Second Lease to Tenant B notwithstanding that the Owners would not be residing in the Property with Tenant B during the lease period, in breach of the HDB T&Cs, in contravention of paragraph 4(1) read with paragraph 4(2)(e) of the Code.

### **Charge 3 (Proceeded)**

Bringing discredit or disrepute to the real estate agency industry by devising a scheme to financially benefit Home4u, by misleading the Owners that Tenant B was only willing to pay \$1,550 in monthly rent when Tenant B had offered to pay \$2,000, and dishonestly misrepresenting to Tenant B that he had to engage Home4u and pay \$350 every month for maintenance services as part of the conditions for entering into the Second Lease when the engagement of Home4u was not required by the Owners, in contravention of paragraph 7(1) read with paragraph 7(2)(a) of the Code.

### **Charge 4 (Proceeded)**

Failing to declare in writing to Tenant B his interest in Home4u when requesting Tenant B to enter into a Contract of Service with Home4u, being an actual conflict of interest, and continuing to act on behalf of Tenant B in respect of the Second Lease, in contravention of paragraph 13(1) read with paragraph 13(2)(a) of the Code.

### **Charge 5**

Bringing discredit or disrepute to the real estate agency industry, by collecting \$182 for payment of stamp duty for the Second Lease from Tenant B when the actual amount of stamp duty was \$148, and keeping the difference of \$34, in contravention of paragraph 7(1) of the Code.

### **Outcome**

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

In sentencing, the DC noted the following:

- (a) In respect of Charge 2, the Respondent had facilitated the Second Lease with full knowledge that it would be in breach of the HDB T&Cs, and his misconduct was deliberate, wilful and motivated by the commission he stood to gain;
- (b) In respect of Charge 3, the Respondent's conduct was of the gravest kind as it involved dishonesty and fraud perpetrated directly against his own client, and also betrayed the Owners' trust;
- (c) In respect of Charge 4, the Respondent had placed himself in a direct and actual conflict of interest, which ought to be disclosed to ensure transparency of the transaction and enable Tenant B to make an informed decision on whether to enter into the Contract of Service or continue with his engagement. The Respondent's failing was deliberate, dishonest and in furtherance of his scheme to defraud Tenant B;
- (d) The Respondent was an experienced salesperson and ought to set a positive example for his juniors by demonstrating the high standards of integrity and professionalism expected of salespersons, but failed dismally to do so;

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- (e) The Respondent had 2 other charges to be taken into consideration in sentencing, with Charge 1 demonstrating a repetitive pattern of disregard for regulatory compliance in favour of his own interests, and Charge 5 demonstrating his propensity for acts of dishonesty for personal financial gain;
- (f) The Respondent had no antecedents and pleaded guilty at the earliest opportunity; and
- (g) While the Respondent had returned the sum of \$5,600 collected under the Contract of Service to Tenant B, the mitigating effect was limited given that he had offered to do so only after Tenant B confronted him about the scheme, which suggested that it was not made out of genuine remorse, but because he had been found out.

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

**Charge 2:** A financial penalty of \$6,000 and a suspension of 6 months.

**Charge 3:** A financial penalty of \$10,000 and a suspension of 9 months.

**Charge 4:** A financial penalty of \$5,000 and a suspension of 4 months.

The suspension periods for Charges 2 and 3 were ordered to run consecutively, with the suspension period for Charge 4 ordered to run concurrently. The total sentence imposed was a financial penalty of \$21,000 and a suspension of 15 months.

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