

## **S/N 1 – Failing to Declare a Potential Conflict of Interest and Failing to Protect Clients’ Interest**

### Facts of Case

The sellers of a HDB flat engaged the Respondent on an exclusive basis to sell their flat ('Flat').

The Respondent was a mentor to his downline and roped in his downline to assist in the marketing and advertisement of the Flat. The Flat was advertised on a 'Buyer only' basis. The advertisements wrongly stated the block number as '260D' when it should have been '260B'.

The Complainant was a salesperson who was helping the buyers to look for a HDB flat to purchase. However, the Complainant was obstructed from bringing the buyers to view the Flat. The buyers then arranged themselves for a viewing of the Flat.

The viewing of the Flat by the buyers was arranged and conducted by the Respondent and his downline. The buyers decided to purchase the Flat and made an offer to purchase it at the price of \$520,000. The sellers agreed to this price. The downline's services were offered to the buyers and they were invited to appoint him as their salesperson in their purchase of the Flat. The buyers then engaged him as their salesperson. The Respondent assisted the sellers to issue to the buyers an option to purchase the Flat at the price of \$520,000.

The Respondent stood to receive an overrider fee of 6% of his downline's commission, of 1% of the price, which was payable by the buyers on completion of the transaction. However, the Respondent did not disclose to his clients that he would stand to receive the 6% overrider fee and proceeded to assist them with the issue of the option to purchase to the buyers.

### Charges

The Respondent was charged for the following offences:

#### Charge 1

For failing to declare to his clients his conflict or potential conflict of interest in receiving the 6% overrider fee and continuing instead to assist his clients in selling the Flat to the buyers, in contravention of paragraph 13(1) read with paragraph 13(2)(a) of the Code of Ethics and Professional Client Care.

#### Charge 2

For failing to protect his clients' interest in marketing and advertising the Flat on a 'Buyer only' basis, in contravention of paragraph 6(1) read with paragraph 6(2)(a) of the Code of Ethics and Professional Client Care.

### Charge 3

For causing or allowing to be made advertisements which stated the wrong block number, i.e. block '260D' instead of '260B', in contravention of paragraph 12(4)(a) of the Code of Ethics and Professional Client Care.

### Outcome

Following a trial, the DC found that the Respondent was guilty of the 3 charges, The DC decided as follows:

#### Charge 1

The Respondent had failed to discharge his burden of showing due disclosure to his clients of his interest in receiving the 6% override fee which was in conflict or potential conflict with the interest of the sellers.

A financial penalty of \$4,000 and suspension of 6 months was imposed.

#### Charge 2

The only logical interpretation of the phrase 'Buyer only' was that salespersons were excluded. The Respondent's conduct in marketing and advertising the Flat on this basis was not in the best interest of the sellers as it could have potentially reduced the pool of potential buyers and hence the price of the Flat.

A financial penalty of \$4,000 and suspension of 6 months was imposed for this charge.

#### Charge 3

The Respondent has knowingly allowed or caused the wrong block number to be stated in the advertisements, which were posted by his downline. The DC found that the advertisements stated the wrong block number to sieve out unrepresented buyers from salespersons.

A financial penalty of \$2,000 and suspension of 3 months was imposed.

The suspensions were ordered to run concurrently and fixed costs of \$1,000 were imposed upon the Respondent.