

## **S/N 6/2019 – Failure to Act in a Fair and Reasonable Manner to the Buyers of a Property by Misrepresenting to the Buyers the Prevailing Bridging Loan Interest Rate**

### **Facts of Case**

The Respondent was at all material times a registered salesperson.

Sometime in May 2017, the Respondent was engaged by the Seller to market and sell the Property. In or around August 2017, the Buyers contacted the Respondent to arrange for a viewing of the Property after seeing an advertisement posted by the Respondent for the sale of the Property. On 26 August 2017, the Buyers offered to purchase the Property for \$1.36 million after viewing the Property. Their offer was accepted by the Seller.

In the evening of 27 August 2017, the Buyers met the Respondent and informed her that they wished to sell their Flat to finance the purchase of the Property. The Respondent offered to represent the Buyers for the sale of the Flat. She informed the Buyers that if they wanted to finance the purchase of the Property from the proceeds of the sale of their Flat, they would require a bridging loan. Further, she verbally represented to the Buyers that the interest rate for a bridging loan was 1.5% per annum. She did some calculations and informed the Buyers of the sums payable for the purchase of the Property based on the interest rate of 1.5% for their consideration. However, at the material time, the prevailing interest rate of bridging loans ranged from about 4% to 5% per annum. Moreover, at no time did the Respondent advise the Buyers to seek advice on such interest rates from banking professionals.

On the same day, the Seller issued the Buyers an Option to Purchase for the Property (which was eventually exercised by the Buyers on 4 October 2017). On 29 August 2017, the Buyers signed an exclusive estate agent agreement with the Respondent for the sale of the Flat.

Subsequently, the Buyers asked the Respondent to confirm the prevailing interest rates for bridging loans and the Respondent informed the Buyers that, after checking with bankers, the interest rates for bridging loans had increased to 5%. It was at this point that the Respondent realised that she had informed the Buyers of the wrong interest rate for bridging loans.

As a result of the Respondent's misrepresentation of the interest rates for bridging loans, the Buyers who required a bridging loan to tide them over the period between the purchase of the Property and the sale of their Flat, were faced with the prospect of paying additional interest of about \$1,384.57 for the bridging loan compared to what was represented to them by the Respondent.

Fortunately for the Buyers, they eventually managed to avoid incurring the additional interest by obtaining a loan from one of their parents. The Respondent also agreed to reduce her commission for helping the Buyers to sell their Flat from 2% to 1%, to

compensate them for the misrepresentation of the prevailing market interest rate of bridging loans.

Accordingly, the Respondent had failed to act in a fair and reasonable manner towards the Buyers by misrepresenting the prevailing interest rate of bridging loans and failed to advise the Buyers to receive professional advice in respect of bridging loans interest rates when this was a material issue which was beyond her knowledge or expertise.

### **Charges**

The Respondent faced the following two charges:

#### **Charge 1 (Proceeded)**

Failing to act in a fair and reasonable manner towards the Buyers of the Property by misrepresenting to the Buyers of the Property that the interest rate for a bridging loan was 1.5% per annum, in contravention of paragraph 6(3) read with paragraph 6(4)(c) of the Code of Ethics and Professional Client Care.

#### **Charge 2**

Failing to advise and encourage the prospective buyers of the Property to seek the advice of banking professionals on the prevailing bridging loan interest rates when such rates of interest was beyond her knowledge or expertise, in contravention of paragraph 14 of the Code of Ethics and Professional Client Care.

### **Outcome**

Pursuant to a plea bargain, the Respondent pleaded guilty to Charge 1, with Charge 2 taken into consideration for sentencing.

In sentencing, the Disciplinary Committee (“DC”) took into consideration that the Respondent was not knowingly dishonest when she misrepresented the interest rate of the bridging loan to the Buyers, but was of the opinion that a short suspension was still appropriate as the misrepresentation was considered a serious failure in rendering the required level of professional service expected from a salesperson.

The DC also took into account that the Respondent did not gain any benefit from her misconduct and that Respondent’s act of giving up half her commission to compensate the Buyers was a mitigating factor. Accordingly, the DC imposed the following financial penalty and disciplinary order on the Respondent:

**Charge 1:** A financial penalty of \$2,000 and a suspension of 1 month.

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