

S/N 5/2015 – Failure to Declare Multiple Potential Conflicts of Interest

Facts of Case

The Respondent was a salesperson and one of the three directors and owner of one third of the issued share capital of a private limited company in the business of property management and subletting properties (“**Company**”). The Company had in December 2011 signed a one year tenancy agreement with a developer for the rental of twenty residential units (comprising ten 3-bedroom units and ten 4-bedroom units) (“**Property**”) in a development which was then slated for demolition in about 6 months. The monthly rental for each of the ten 3-bedroom units was \$2,500 while the monthly rental for each of the ten 4-bedroom units was \$2,800.

Together with his uncle, who was also a director and owner of one third of the issued share capital of the Company, they advertised the Property for subtenants. The Respondent and his uncle represented three subtenants (viz. Tenants A, B and C) in entering into the following one year subleases with the Company:

- a. Tenant A – sublease of two 4-bedroom units at the monthly rent of \$3,500 each.
- b. Tenant B – sublease of four 3-bedroom units at the monthly rent of \$3,000 each.
- c. Tenant C – sublease of two 4-bedroom units at the monthly rent of \$3,500 each.

The Respondent did not disclose that he was the director and shareholder of the Company. The subtenants paid the following commission (amounting to 25% of the monthly rent for each sublease) to the Respondent and his uncle as the salespersons’ commission (on the proceeded charges – see below):

- a. Tenant A – total commission of \$875 was paid.
- b. Tenant B – total commission of \$750 was paid.
- c. Tenant C – total commission of \$875 was paid.

Charges

The Respondent faced the following eight charges:

Charge 1 (Proceeded)

Failing to declare in writing as soon as possible, or at all, to his client, Tenant A, his potential conflict of interest which arose by virtue of him being the director and owner of one third of the issued share capital of the Company, with whom he had assisted his client to enter into a Tenancy Agreement for the sublease of one 4-bedroom unit, in contravention of paragraph 13(1) read with paragraph 13(2)(a) of the Code of Ethics and Professional Client Care.

Note: This case was referred to a CEA Disciplinary Committee (DC) before 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.

Charge 2 (Taken into consideration)

Failing to declare in writing as soon as possible, or at all, to his client, Tenant A, his potential conflict of interest which arose by virtue of him being the director and owner of one third of the issued share capital of the Company, with whom he had assisted his client to enter into a Tenancy Agreement for the sublease of one 4-bedroom unit, in

contravention of paragraph 13(1) read with paragraph 13(2)(a) of the Code of Ethics and Professional Client Care.

Charge 3 (Proceeded)

Failing to declare in writing as soon as possible, or at all, to his client, Tenant B, his potential conflict of interest which arose by virtue of him being the director and owner of one third of the issued share capital of the Company, with whom he had assisted his client to enter into a Tenancy Agreement for the sublease of one 3-bedroom unit, in contravention of paragraph 13(1) read with paragraph 13(2)(a) of the Code of Ethics and Professional Client Care.

Charges 4, 5 & 6 (Taken into consideration)

Failing to declare in writing as soon as possible, or at all, to his client, Tenant B, his potential conflict of interest which arose by virtue of him being the director and owner of one third of the issued share capital of the Company, with whom he had assisted his client to enter into Tenancy Agreements for the sublease of three 3-bedroom units, in contravention of paragraph 13(1) read with paragraph 13(2)(a) of the Code of Ethics and Professional Client Care.

Charge 7 (Proceeded)

Failing to declare in writing as soon as possible, or at all, to his client, Tenant C, his potential conflict of interest which arose by virtue of him being the director and owner of one third of the issued share capital of the Company, with whom he had assisted his client to enter into a Tenancy Agreement for the sublease of one 4-bedroom unit, in contravention of paragraph 13(1) read with paragraph 13(2)(a) of the Code of Ethics and Professional Client Care.

Charge 8 (Taken into consideration)

Failing to declare in writing as soon as possible, or at all, to his client, Tenant C, his potential conflict of interest which arose by virtue of him being the director and owner of one third of the issued share capital of the Company, with whom he had assisted his client to enter into a Tenancy Agreement for the sublease of one 4-bedroom unit, in contravention of paragraph 13(1) read with paragraph 13(2)(a) of the Code of Ethics and Professional Client Care.

Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to Charges 1, 3 and 7, while Charges 2, 4, 5, 6, and 8 were taken into consideration for the purposes of sentencing.

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The DC imposed the following sentences on the Respondent:

Charge 1: Suspension of five months and a financial penalty of \$4,000

Charge 3: Suspension of five months and a financial penalty of \$4,000

Charge 7: Suspension of five months and a financial penalty of \$4,000

The suspensions were ordered to run concurrently.

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