

S/N 14/2016 – Failure to Provide a Written Advisory Message to Buyers on Risks for Foreign Properties

Facts of Case

The Respondent, an estate agent, was appointed by a US property development company (“**Company N**”) to be the marketing agent of Company N in Singapore. Under the written agency agreement, one of the Respondent’s duties was to promote and sell Company N’s project in the US (“**Project T**”), and the Respondent was entitled to a commission of up to 15% of the purchase price of each property unit sold.

The Respondent and Company N conducted a seminar at a hotel in Singapore in or around the first week of August 2014 to promote and sell Project T. A representative of the Respondent conducted one of several presentations on Project T for the attendees.

During the course of the seminar, another of Company N’s projects in the US (“**Project M**”) was also brought to the attention of the attendees.

Three buyers who were among the attendees at the seminar each bought a unit from Company N through the Respondent. The details of the three buyers’ purchase are as follows:

- (a) Ms H bought one unit at Project T at the purchase price of US\$74,950. She paid a total of US\$31,032 to Company N. The Respondent duly received a commission of up to US\$3,934.88 (being 35% of 15% of the purchase price of US\$74,950) from Company N for the property unit sold to Ms H.
- (b) Mr W bought one unit at Project T at the purchase price of US\$74,950. He had not bought any foreign properties prior to this purchase. Mr W paid a total of US\$33,982.50 to Company N. The Respondent duly received a commission of up to US\$3,934.88 (being 35% of 15% of the purchase price of US\$74,950) from Company N for the property unit sold to Mr W.
- (c) Mr P bought one unit at Project M at a purchase price of US\$59,950. He paid a total of US\$47,265 to Company N. The Respondent duly received a commission of up to US\$6,294.75 (being 70% of 15% of the purchase price of US\$59,950) from Company N for the property unit sold to Mr P.

On or around 5 May 2015, the US Securities and Exchange Commission (“**SEC**”) announced charges against Company N for allegedly fraudulently raising over US\$62 million from investors worldwide through the sale of interests in the development of housing projects based in the US, including Project T and Project M. The US District Court granted the SEC’s motion for a temporary restraining order against Company N.

The buyers, Ms H, Mr W and Mr P, did not recover the amounts which they paid to Company N, or any part thereof.

Charges

The Respondent faced the following three charges:

Charges 1, 2 and 3

For failing to provide a written advisory message to three respective buyers:

- (a) Ms H (Charge 1);
- (b) Mr W (Charge 2); and
- (c) Mr P (Charge 3),

who each purchased through it a unit at a project located in the US, stating that they must conduct due diligence, drawing their attention that risks are involved for foreign property consumers and that the transaction is subject to foreign laws and to any change in policies and rules in the country where the property is located, in contravention of paragraph 16 of the Practice Guidelines for Estate Agents and Salespersons Marketing Foreign Properties issued on 14 March 2014, read with paragraph 4(1) and paragraph 4(2)(a) of the Code of Ethics and Professional Client Care.

Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to Charge 2, with Charges 1 and 3 taken into consideration for sentencing. The Disciplinary Committee imposed the following financial penalty on the Respondent:

Charge 2: A financial penalty of S\$7,500.

The Disciplinary Committee also attached a condition to the Respondent's licence with the condition that the Respondent shall not market or transact in any foreign property for a period of six months.

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