

S/N 1/2015 – Misleading Potential Buyer That Offer Was Rejected, and Further Misleading Statements

Facts of Case

A potential buyer had approached the Respondent to purchase a property (the “**Property**”). On 20 June 2011 at 9:21 am, the potential buyer made an offer of \$1.75 million for the Property and the Respondent conveyed the offer to the seller’s salesperson. The seller’s salesperson informed the Respondent that he would have to check with the seller who was in Russia.

However, before getting a response from the seller or the seller’s salesperson, the Respondent informed the potential buyer, on 20 June 2011 at 3:02 pm, that the seller did not accept her offer. Even after the seller’s salesperson had informed the Respondent that the potential buyer’s offer had been accepted by the seller, on 20 June at about 8.45pm, the Respondent did not inform the potential buyer that her offer was accepted. Instead, the Respondent attempted to get the potential buyer to increase her offer to \$1.8 million. The potential buyer requested the Respondent to notify the seller that she would raise a bridging loan (so that she could raise her offer to \$1.8 million) and in exchange she wanted a longer period to exercise the Option to Purchase (the “**OTP**”) (“**her request**”). The Respondent then misled the potential buyer into thinking that he had conveyed her request to the seller’s salesperson, when this was not the case. Thereafter, the Respondent avoided all attempts by the potential buyer to contact him.

Whilst avoiding the potential buyer, the Respondent liaised with a salesperson from his own estate agent to purchase the property at \$1.75 million. On 21 June 2011, the Respondent closed the deal of the purchase of the Property on behalf of his colleague from the same estate agent by delivering a cheque and offer letter from his colleague to the seller’s salesperson.

On 22 June 2011, after repeated failed attempts by the potential buyer to contact the Respondent, the Respondent finally informed the potential buyer that the unit had been purchased by another person. To further cover his actions, the Respondent misled the potential buyer that the successful transaction was closed by a colleague of the Respondent on behalf of the eventual buyer and it was this colleague who had marketed the Property and closed the transaction for the eventual buyer (who also was a salesperson from the same estate agent as the Respondent), when in fact it was all along the Respondent who had marketed and closed the transaction for the eventual buyer.

Charges

The Respondent faced the following three charges:

Charge 1

For conduct that may bring discredit or disrepute to the estate agency trade or industry by misleading the potential buyer that her offer was not accepted when in fact the offer was still being considered, in contravention of paragraph 7(1) read with paragraph 7(2)(a) of the Code of Ethics and Professional Client Care (“**Code**”).

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

For conduct that may bring discredit or disrepute to the estate agency trade or industry by misleading the potential buyer that her request to inform the seller that she would take a bridging loan so that she could offer \$1.8 million for the Property in exchange for a longer OTP exercise period was conveyed to the seller's salesperson when it was not, in contravention of paragraph 7(1) read with paragraph 7(2)(a) of the Code.

Charges 3

For conduct that may bring discredit or disrepute to the estate agency trade or industry by misleading the potential buyer that the eventual buyer's transaction was closed by a colleague of the Respondent when it was the Respondent who had closed the transaction for the eventual buyer, in contravention of paragraph 7(1) read with paragraph 7(2)(a) of the Code.

Outcome

Following a trial, the DC found the Respondent guilty of all three charges and imposed the following penalties on the Respondent:

Charge 1: A financial penalty of \$5,000 and a suspension of seven months

Charge 2: A financial penalty of \$4,000 and a suspension of six months

Charge 3: A financial penalty of \$2,000 and a suspension of a month

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