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22 September 2017

**CEA's Disciplinary Committee imposes financial penalty and suspension on property agent for misconduct when dealing with elderly clients**

The Council for Estate Agencies' (CEA) Disciplinary Committee sentenced PropNex Realty property agent Ng Ser Leong to a financial penalty of \$6,000 for two charges of breaches to CEA's Code of Ethics and Professional Client Care while representing an elderly couple in their 80s in the sale of their Housing and Development Board (HDB) flat. The Disciplinary Committee also imposed a 7-month and 4-month suspension on Ng's registration to conduct estate agency work respectively for each charge. The suspension periods will run concurrently from 19 October 2017.

2. CEA's investigations showed that Ng, 44, had failed to ascertain if the elderly female seller was fully aware of the nature and consequences of the sale of the flat before proceeding with the sale. The elderly female seller is illiterate, suffers from an advanced stage of dementia and is residing in a purpose built home for people with dementia.

3. Despite being informed that she is senile, Ng visited the female seller at the home and obtained her thumbprints on the Option to Purchase for the sale of the flat, an estate agency agreement<sup>1</sup>, and an exclusive estate agency agreement. In addition, he had obtained her thumbprints on these documents where information and details

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<sup>1</sup> The estate agency agreement is a binding contract between a consumer and the property agency for the performance of estate agency work. It sets out the agent's scope and duties, as well as the terms and conditions involved. It also states the amount of commission to be payable to the property agency upon completion of the transaction. There are two types of estate agency agreements – exclusive and non-exclusive. For an exclusive agreement, the consumer appoints one agency during a period to sell, buy or rent a property, while in the case of a non-exclusive agreement, the consumer appoints a few agencies. Consumers will typically sign either an exclusive or non-exclusive agreement depending on which arrangement they opt for.

were left blank. Key information on the Option to Purchase such as the option date, purchase price, and buyer's name were not filled in. Ng also did not provide copies of these documents to the elderly woman.

4. The case came to light when the elderly couple's children found out about the impending sale of the flat after the elderly male seller, who has hearing difficulties and converses mainly in Cantonese, had a fall and was hospitalised. The sale of the flat was subsequently aborted.

5. CEA's investigations also showed that after Ng had obtained the elderly woman's thumbprints at the old folks' home, he did not have any further contact or interactions with her. Neither did he keep her informed about the progress of the sale or its termination.

#### **CEA's charges against Ng Ser Leong**

6. Ng pleaded guilty to a charge under paragraph 5(1) of CEA's Code of Ethics and Professional Client Care (CEPCC). The paragraph states that "estate agents and salespersons shall conduct their business and work with due diligence, despatch and care, and in compliance with all laws including statutory and regulatory requirements, and practice circulars and guidelines". For this charge, the Disciplinary Committee imposed on Ng a financial penalty of \$3,000 and a 7-month suspension.

7. Ng had failed to conduct his work with due diligence and care in his facilitation of the sale transaction with the elderly female seller, a dementia patient, who is considered a vulnerable client under paragraph 1.9.1. of CEA's Professional Service Manual. The Manual states that vulnerable clients are those whom property agencies and agents "believe or ought reasonably to believe require greater attention and considerate treatment as a result of physical, mental, or emotional impairment, or who for any other reason are unable to make rational decisions on the property transaction".

8. Ng also pleaded guilty to another charge under paragraph 9(2)(d) of the CEPCC. Under the paragraph, property agencies and agents "must not ask or procure anyone to sign an agreement in which essential or material terms or information such

as the property address, price, dates, names, and commission payable have been omitted or the relevant space for such terms or information is left blank or unfilled". For this charge, the Disciplinary Committee imposed on Ng a financial penalty of \$3,000 and a 4-month suspension.

9. Four other charges against Ng were also taken into account for sentencing:
  - One charge for failing to render professional and conscientious service by meeting the elderly female seller only once at the home and not updating her on the progress of the sale thereafter;
  - One charge each for failing to provide the elderly woman with a copy of the following three documents - Option to Purchase, estate agency agreement, and exclusive estate agency agreement - after she imprinted her thumbprint on them.
  
10. Please refer to the Annex for more details on the case.

### **CEA's regulatory framework**

11. The duties, business activities, and conduct of property agencies and agents in Singapore are governed by the Estate Agents Act and its Regulations, which include the Code of Practice for Estate Agents and the CEPCC. In addition, the Professional Service Manual sets clear standards and guidelines to ensure agents render their services competently, professionally, and ethically to promote open, fair, and honest property transactions.

12. Property agencies and agents who breach any of the above provisions are liable to face disciplinary action by a Disciplinary Committee. The Disciplinary Committee is an independent committee constituted by members nominated from the disciplinary panel comprising lawyers, individuals from the real estate industry, and other professionals.

## **Advice to consumers**

13. CEA advises consumers not to sign on transaction documents (e.g. Option to Purchase, estate agency agreement) that are incomplete and have sections which are left blank. They should always ensure that all fields are filled in, and that they understand the content of these documents before signing them. Consumers should also seek clarification from their property agents if they have doubts on any terms and conditions reflected in these documents. If necessary, they should seek legal advice on their concerns.

14. CEA encourages consumers to use the estate agency agreement as it formalises the contract with your agent, sets out the agent's scope of work and duties as well as the terms and conditions involved. Property agents should prepare the agreements based on their discussions with their clients. They should explain the agreement to their clients and give them sufficient time to read it before the clients sign the document. They should also provide their clients with a copy of the signed agreement.

15. CEA advises family members, relatives, and caregivers of vulnerable individuals looking at selling or renting their properties to play a proactive role in supporting these consumers in the process. Do alert the property agent involved in the transaction on the circumstances that may not allow these clients to make informed decisions. To protect vulnerable clients, CEA's guidelines state that if necessary, property agents should consider involving the family members and relatives of such groups of clients in discussions regarding the transaction. In addition, the property agent should explain to the client that the client should seek legal advice if a decision with legal implications has to be made. The agent should also consider advising the client to put the agent in contact with the client's legal adviser if there are concerns about any decisions that are being taken.

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### **About the Council for Estate Agencies**

The Council for Estate Agencies (CEA) is a statutory board established in 2010 under the Estate Agents Act (Cap. 95A) to regulate and promote the development of a professional and trusted real estate agency industry. The key responsibilities of the CEA are to license property agencies and register property agents, promote the integrity and competence of property agencies and property agents, and equip consumers with the necessary knowledge to make informed decisions in property transactions. For more information, please visit: [www.cea.gov.sg](http://www.cea.gov.sg).

**About the case**

In or around August 2015, a friend of an elderly man approached property agent Ng Ser Leong to assist in the sale of the man's flat.

2. Ng visited the elderly man's flat twice. During the second visit, he discovered that the flat was co-owned by the elderly man and his wife. The elderly man then informed Ng that his wife had been residing in an old folks' home in Pasir Ris for the past 10 years. Ng explained to the elderly man that the man and his wife would have to sign the Option to Purchase, an estate agency agreement, and an exclusive estate agency agreement since they were joint owners of the flat. Ng added that the elderly man's wife's thumbprint would suffice on the documents to proceed with the sale.

3. On 10 August 2015, Ng accompanied the elderly man and the friend to the old folks' home to obtain the elderly man's wife's signature on the transaction documents. Ng had located the home after searching the Internet. This is a purpose-built home for dementia patients.

4. During the visit, Ng approached an employee of the home to help him obtain the elderly woman's thumbprint on the transaction documents. At this point, important information in the transaction documents were left blank. For example, key information in the Option to Purchase document such as the option date, flat address, option expiry date and time, purchase price, and buyer name were not filled in as the flat had not been marketed for sale yet and no buyer had been found. Similarly, information on the first page of the estate agency agreement and exclusive estate agency agreement such as the agreement date, commencement date, and the expiry date were also not filled in.

5. The elderly couple's flat was then advertised on various online property portals on 13 August 2015.

6. On 14 August 2015, a potential buyer responded to the advertisement and a viewing was scheduled on 15 August 2015. After the viewing, the buyer eventually agreed to purchase the flat at \$360,000. On the evening of 15 August 2015, The buyer met Ng to pass him a cheque for \$1,000 for the Option Fee and a cheque to obtain a valuation report.

7. On or before 17 August, Ng proceeded to fill in the details on the transaction documents that had already contained the elderly female seller's thumbprints. In the exclusive estate agency agreement and estate agency agreement, PropNex and Ng were indicated as the appointed agency and agent respectively, with the commission amount stipulated at two per cent of the transacted price. The elderly male seller signed on the documents on 17 August 2015.

8. On 26 August 2015, the buyer received the valuation report for the flat and arranged to meet at the flat on 29 August 2015 to exercise the Option to Purchase. During the meeting, the buyer signed the Option to Purchase and passed a cheque for \$4,000 to the elderly male seller to exercise the option. On the same day, Ng submitted the Request to Process Sale and Purchase of Resale Flat to HDB. The first appointment with HDB was scheduled on 19 October 2015. The buyer also paid a resale application fee to HDB.

9. In or around 1 September 2015, the elderly male seller had a fall and was hospitalised. His children found out about the ongoing sale of the flat when they visited their father. When Ng was questioned by the sellers' son, Ng admitted that that he was informed earlier on during the second visit to the flat that the elderly female seller was "senile".

10. Ng informed the buyer of the situation on 2 September 2015 and advised her to cancel the cheque she had given to the elderly male seller. The buyer paid a fee to stop the payment of the cheque for the Option Exercise Fee. Throughout the month of September and early October 2015, the buyer had to negotiate with the sellers' son on the refund of the Option Fee, Resale Application Fee, Stop Cheque Fee and the Valuation Fee. The resale application for the flat was subsequently cancelled on or

around 20 October 2015. The sellers' children met up with the buyer on 10 November 2015 and refunded her \$1,000 for the Option Fee.

11. CEA was alerted to Ng's actions when the elderly couple's son lodged a complaint against Ng on 22 September 2015. The buyer also lodged a complaint against Ng to CEA on 19 October 2015.