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INTEGRITY IN FOCUS

紀律研訊個案：違規追收佣金
DISCIPLINARY HEARING CASE: NON-COMPLIANCE IN CHASING COMMISSION

引言

持牌人在追收佣金時，不應有違規的行為而導致地產代理行業信譽或名聲受損，否則有可能被監管局紀律處分。

INTRODUCTION

Licensees should not misbehave in a way which may bring discredit and/or disrepute to the estate agency trade when chasing commission. Otherwise, they may be subject to disciplinary action by the Estate Agents Authority.

事件經過

一名地產代理經營一間地產代理公司業務。在安排一名準租客視察物業後，該地產代理在未有與準租客簽訂地產代理協議的情況下，便安排準租客及業主雙方簽訂正式租約。在簽署租約後，地產代理向租客收取9,500元的代理佣金，即相當於半個月租金金額。

該租客表示，由於他未有與地產代理簽訂任何地產代理協議，故拒絕支付有關佣金。他只提出支付一張5,000元的支票及一封1,000元的利是予該代理，但該代理拒絕收取。

其後，該代理去信予租客所任職的公司，指出其員工拒絕繳付代理佣金，並披露該租客的個人資料。租客對該代理的此一舉動大感不滿，遂向監管局作出投訴。

INCIDENT

An estate agent operated an estate agency company. He arranged for a prospective tenant to inspect a property and then entered into a tenancy agreement with the landlord but he did not enter into an estate agency agreement with the tenant. After signing the tenancy agreement, the estate agent requested the tenant to pay a commission of $9,500, which was equal to half of the monthly rent.

The tenant refused to pay as he did not enter into any estate agency agreement with the agent. He only proposed to offer the agent a cheque of $5,000 and pocket money of $1,000 as courtesy, but the estate agent refused to accept the offer.

Later, the estate agent sent a letter to the company that the tenant worked for, saying that the tenant refused to pay commission to him and disclosed the personal information of the tenant in the letter. Feeling aggrieved by the estate agent's misdemeanour, the tenant lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為，地產代理不可向第三方披露有關租客的個人資料。

該地產代理違反了《操守守則》第3.7.2段：「地產代理和營業員應避免做出可能令地產代理行業信譽及/或名聲受損的行為」。

考慮到個案的性質、持牌人的違規紀錄及同類個案的罰則，該地產代理結果被譴責及罰款10,000元。

RESULT

The EAA Disciplinary Committee was of the view that the agent should not disclose personal information about the tenant to a third party.

The Disciplinary Committee found that the estate agent was in breach of paragraph 3.7.2 of the *Code of Ethics*, which stipulates: "estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade."

Having considered the nature and gravity of the case and the disciplinary record of the estate agent, the estate agent was reprimanded and fined $10,000.

香港專業地產顧問商會榮譽會長
汪敦敬先生
Mr Lawrance Wong Dun-king
Honorary President of Hong Kong Chamber of Professional Property Consultants Limited

業界回應

地產代理行業已進入專業年代，從業員提供服務時有不少指引和程序可依循，當中亦有法例規定從業員要保障客人的利益及私隱。專業持續進修計劃是一個重要的環節，從業員要不斷去吸收新知識，與時並進。

COMMENT FROM TRADE

The estate agencies are getting professional. There are guidelines and procedures for practitioners to follow when providing service to clients so as to protect the clients' interest and privacy. Continuing Professional Development Scheme is also important for them to gain up-to-dated information from the market.

紀律研訊個案：發布含錯誤物業資料的廣告
DISCIPLINARY HEARING CASE: ISSUING AN ADVERTISEMENT WITH INCORRECT PROPERTY INFORMATION

引言

持牌人應盡量小心和盡一切應盡的努力於廣告中提供正確的物業資料，否則有可能被監管局紀律處分。

INTRODUCTION

Licensees should exercise due care and due diligence in providing correct and accurate property information in advertisements. Otherwise, they may be subject to disciplinary action by the Estate Agents Authority.

事件經過

監管局接獲一宗匿名投訴，指一間地產代理公司於公司網頁上發布違例的物業廣告。

該廣告是關於一個面積994平方呎的單位，放售價為1,350萬元。但是，監管局經調查後發現，該單位其實是由兩個業主分別持有的獨立單位；而不是如廣告中所指的單一物業。兩個單位的實用面積分別為498及496平方呎，放售價均為700萬元。

INCIDENT

The EAA received an anonymous complaint that an estate agency company had issued a non-compliant property advertisement on its company website.

The advertisement was about a 994-square-feet unit with a listed price of $13.5 million. However, upon investigation, the EAA found that the said property was composed of two individual units which were owned by two different owners. It was not a single property as stated in the advertisement and the listed price of both properties was $7 million each and the saleable area of the two units was 498 and 496 square feet respectively.

研訊結果

監管局紀律委員會認為，該地產代理公司沒有盡量小心和盡一切應盡的努力確保廣告中的物業資料正確無誤，因而違反了《操守守則》第3.5.1段：「地產代理和營業員在履行職務時必須盡量小心和盡一切應盡的努力。」

考慮個案的性質、持牌人的違規紀錄及同類個案的罰則後，委員會決定譴責該地產代理公司及罰款22,000元。

RESULT

The EAA Disciplinary Committee was of the view that the estate agency company failed to exercise due care and due diligence in ensuring the accuracy of the property information when issuing the advertisement for the properties. Therefore, it was in breach of paragraph 3.5.1 of the *Code of Ethics*, which stipulates: "Estate agents and salespersons shall, in fulfilling their duties, exercise due care and due diligence".

Having considered the nature and gravity of the case and the disciplinary record of the estate agency company, the Committee decided to reprimand the estate agency company and impose a fine of $22,000.

香港地產代理商總會主席
謝順禮先生
Mr Calvin Tse Shun-lai
Chairman of Hong Kong Real Estate Agencies General Association

業界回應

作為專業的地產代理在刊登物業廣告時，必須確保廣告中的物業資料正確無誤，避免客人失去預算及招致損失。

COMMENT FROM TRADE

Professional estate agents should ensure the validity of the property information when issuing property advertisement to avoid over budget of the clients.