誠信守法　專業典範

地產代理從業員在執業的過程中，必須謹守誠信，小心避免墮入貪污舞弊陷阱。以下是廉政公署為今期《專業天地》的撰文，通過兩個處境舉例，闡述一些容易被忽略的貪污罪行，藉此提醒從業員提高警惕。

（一）　攤分佣金　互惠互利

地產代理阿傑的好友嘉明於鐘錶集團任職業務拓展經理，負責店舖租賃。由於鐘錶集團計劃於年內加開多家分店，嘉明須要在短時間內物色商舖。為省時省力，嘉明委託阿傑協助搜尋舖位。阿傑遂提議向嘉明提供部份的代理佣金，以表感謝。

法例重點：

根據《防止賄賂條例》，嘉明若沒有自己公司的同意，收受阿傑提供的利益，以答謝他委託對方物色舖位，嘉明與阿傑同時會觸犯該條例。為免觸犯貪污罪行，地產代理不應在處理業務時向客戶的代表提供利益。

（二）　違法所得　得不償失

地產代理麗沙與銀行按揭部職員志偉是舊同學。志偉在一次聚會中得悉麗沙正努力儲蓄預備結婚，提出自己可於樓按客戶的申請表格上，加上麗沙為轉介人，好讓她能賺取銀行發放的客戶轉介費。同時，志偉要求麗沙於協助處理一宗自己的物業交易時免收佣金。

法例重點：

根據《防止賄賂條例》，「利益」包括金錢、禮物、貸款、服務及免卻付款等。免卻「地產代理服務」佣金屬於利益。志偉在沒有銀行的准許下，接受麗沙提供的免費地產代理服務，以作為他在樓按客戶的申請表格上加上麗沙為轉介人的報酬，他倆均會觸犯貪污罪行。即使志偉沒有接受任何利益，他和麗沙的行為也會構成詐騙罪行。而志偉蓄意利用載有虛假、錯誤或欠妥陳述的申請表格欺騙銀行，亦會觸犯《防止賄賂條例》。

防貪服務

誠信專業的團隊能幫助公司建立良好的商譽。廉政公署為地產代理業界提供多元化的防貪服務，包括編製防貪資料、協助地產代理公司制定誠信守則、提供免費防貪顧問服務及培訓課程等。如地產代理公司有興趣安排以上服務，歡迎致電 2587 9812 或電郵 hkedc@crd.icac.org.hk 與廉政公署香港道德發展中心聯絡。
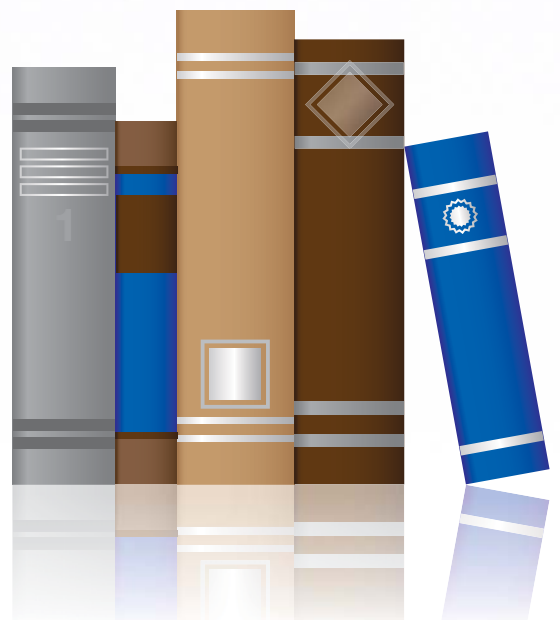
Integrity & Law Compliance —
The Key to Professionalism

It is important for estate agency practitioners to adhere to the principles of integrity and beware of possible corruption pitfalls to avoid inadvertent breaches in the course of estate agency work. The Independent Commission Against Corruption (ICAC) contributed the following article, through two scenarios, to remind estate agency practitioners to stay vigilant against some easily overlooked corruption offences.

(A)   Commission sharing for mutual benefit

Gary, a good friend of Kenneth who is an estate agent, is working in a watch corporation as business development manager and responsible for shop leasing matters. As the watch corporation plans to open a number of branch stores this year, Gary is required to find shop premises within a short period of time. In order to save time and effort, Gary asks Kenneth to look for suitable shop premises for the corporation. In return, Kenneth proposes to share part of his commission with Gary.

Salient law points:

According to the Prevention of Bribery Ordinance (PBO), both Gary and Kenneth commit bribery offences if Gary, without the permission of the watch corporation, accepts an advantage from Kenneth as a reward for his commissioning the latter to locate shop premises. To avoid breaching the law, an estate agent shall not offer any advantage to his client's representative in relation to his business.

(B)   Ill-gotten gains cannot make up for the loss

Lisa, an estate agent, and Chi Wai, a mortgage staff working for a bank, are old acquaintances. In one of their gatherings, Chi Wai learns that Lisa is making ways to save money for her wedding plans. He then offers to help her obtain the bank's client referral fees by putting her name, in capacity of referrer, on the forms submitted by mortgage loan applicants. In return, Chi Wai asks Lisa to waive his commission when handling the transaction of his own property.

Salient law points:

According to the PBO, "advantage" means any money, gift, loan, service and waiver of payment, etc. The waiver of commission for "estate agency services" is therefore an advantage. Both Chi Wai and Lisa commit corruption offences if Chi Wai, without the permission of the bank, accepts Lisa's free estate agency service as the reward for putting her name on clients' mortgage application forms as referrer. Their acts might have constituted a deception offence even though Chi Wai has not accepted any advantages. Furthermore, Chi Wai shall be guilty of an offence under the PBO for using application forms which contain false, erroneous or defective statements with an intent to deceive the bank.

Corruption Prevention Services

A company with an honest and professional team would definitely help building up its goodwill. The ICAC provides a wide range of corruption prevention services to the estate agency trade, including the production of anti-corruption publications, assistance in formulating codes of conduct and provision of free corruption prevention advisory services and training courses etc. Estate agency companies interested in the above services are welcome to contact the Hong Kong Ethics Development Centre of the ICAC by phone at 2587 9812 or by email hkedc@crd.icac.org.hk.