

紀律研訊個案 — 沒有兌現回贈承諾

從業員在向客戶銷售一手樓盤時，如果承諾會給予任何形式的優惠，便須以書面形式向準買家具體列明優惠的條款及形式，並應按條款兌現承諾，否則可能會被監管局紀律處分。

一名從業員游說一位客戶透過他購買一個新樓盤單位，並口頭承諾會將一半佣金回贈給他。客戶翌日透過該從業員買入新樓盤一個單位，並催促他書面確認回贈佣金安排，從業員聲稱正在處理。他其後數次致電該從業員追問，但他都推說正在跟進。該客戶後來致電該從業員所屬的公司追問，但公司職員表示，該從業員聲稱從未承諾回贈佣金，故該公司不會向他提供回贈。該客戶隨後向監管局投訴。

監管局調查該投訴時，曾多次致函該從業員，要求他就投訴作出解釋，但他一直沒有回覆，並辯稱沒有收到相關信件，但收到寄往相同地址的研訊通知書及文件。

監管局紀律委員會在考慮過研訊上提出的證據之後，認為該從業員沒有兌現他對其客戶的承諾，沒有遵守《操守守則》第3.7.2段，做出對地產代理行業信譽及／或名聲受損的行為。同時，考慮到該從業員在調查過程中態度不合作，對違規行為沒有悔意，紀律委員會決定暫時吊銷其牌照兩個月。

Inquiry hearing case — Failure to honour the promise of a rebate

If a practitioner offers any incentives to his clients when promoting a first-sale development project, he must set out in writing clearly the terms and format of the incentives and honour the promise accordingly. Otherwise, the practitioner may be subject to disciplinary action by the EAA.

When persuading a client to purchase a unit of a new development, a practitioner promised verbally that he would give the client a rebate equivalent to half of his commission. On the following day, the client purchased a unit of the new development through the practitioner. He also urged the practitioner to set out the arrangement of rebate in writing but the practitioner replied that he was preparing it. The client urged the practitioner repeatedly but the practitioner kept using the excuse that he was still following up the matter. The client then asked the estate agency company of which the practitioner was an employee for the rebate. An employee of the company replied that the practitioner denied making such a promise and therefore the company would not give him any rebate. The client then lodged a complaint with the EAA.

During the investigation, the EAA wrote to the practitioner many times for response to the complaint but the practitioner did not reply. He argued that he did not receive the letters from the EAA but he received the notice of inquiry hearing and the bundle of documents the EAA sent to him at the same address.

The EAA Disciplinary Committee, after considering the evidence presented at the hearing, found that the practitioner did not honour his promise to his client. The practitioner therefore did not comply with paragraph 3.7.2 of the Code of Ethics, as he brought discredit and/or disrepute to the estate agency trade. Taking into consideration that the practitioner was uncooperative during the investigation and had no remorse for his misdeed, the Disciplinary Committee decided to suspend the practitioner's licence for two months.



紀律研訊個案一 網上刊登不真確成交資料

隨着互聯網普及，不少地產代理從業員會在網上向消費者發布樓盤的資訊。倘若地產代理發放未經核實的物業資料，不但有機會令消費者蒙受損失，更會被監管局紀律處分。

一間公司的董事閱讀某報章網頁時，發現有關其公司名下商舖物業已經出售的報道，並列出其成交價，稱資料來自某地產代理公司。該董事向監管局投訴，表示其公司沒有出售有關商舖，指有關地產代理公司向報章提供虛假成交資料。

監管局展開調查，發現有關商舖的土地查冊紀錄上並沒有相關轉讓記錄。至於被投訴的地產代理公司，雖否認曾向報章提供相關資料，但其公司網頁上卻刊登了與該報道內容相同的成交資料。該地產代理公司解釋，有關資料是參考其他報章報道所得；然而，這些報道只提及該物業獲買家「積極洽購」，並未落實成交。

監管局紀律委員會認為，該地產代理公司沒有盡量小心及盡一切應盡的努力，查核有關物業的成交資料的真確性，便將資料刊登在其公司網頁上，沒有遵守監管局發出的《操守守則》第3.5.1段。該公司結果被譴責及罰款港幣\$10,000。

Inquiry hearing case — Publishing untrue transaction information online

With the popularity of the Internet, practitioners in the estate agency trade disseminate property information to consumers online. Failing to verify the information prior to releasing it may not only cause a loss to consumers, but would also result in the estate agent being subject to disciplinary action by the EAA.

When reading a newspaper online, a director of a company found a news report about the transaction of a shop owned by the company. It reported that the shop had been sold and quoted its transaction price. It also claimed that the source of information was an estate agency company. The director lodged a complaint with the EAA alleging the estate agency company had provided untrue transaction information to the newspaper because his company had not sold that shop.

During the investigation, the EAA found that there was no relevant transaction record for the shop from the record of search conducted in the Land Registry. Although the estate agency company denied having provided the relevant information to the newspaper, it published the same transaction information on its own website. The estate agency company explained that the information had been obtained from some other newspapers' reports. However, the reports only mentioned that there were negotiations between potential buyers and the owner of that shop but no deal had been reached.

At the conclusion of the hearing, the EAA Disciplinary Committee found that the estate agency company has failed to comply with paragraph 3.5.1 of the Code of Ethics — it failed to exercise due care and due diligence in ascertaining the accuracy of the transaction information before publishing it online. As a result, the estate agency company was reprimanded and fined HK\$10,000.