



## 紀律研訊個案一 沒有披露業主為地產代理公司東主的身份

地產代理與客戶之間的關係應以誠實和忠誠為基礎。如有任何潛在衝突的情況出現，地產代理從業員必須向客戶全面披露所有相關的事實，讓客戶有機會自行決定是否繼續擬進行的交易，及／或繼續委託該名從業員。從業員如未能做到上述要求，可能會被監管局紀律處分。

一名從業員擔任雙邊代理，安排租客和業主簽訂臨時租約，租用一個工業大廈內的物業。在整個交易過程中，該名從業員並沒告知租客，物業的業主是僱用他的地產代理公司的獨資經營者。租客在簽訂正式租約後，始得悉業主的身份，遂向監管局投訴。

監管局紀律委員會認為，該名從業員沒有向客戶披露業主的身份，因此不符合《地產代理條例》第19(1)

(c)條內有關持有地產代理牌照適當人選的要求。紀律委員會決定譴責該名從業員，暫時吊銷其牌照一個月，並在其牌照上附加條件，要求他在24個月內取得持續專業進修計劃下核心科目的12個學分。

另外，該從業員在緊接物業的臨時租約訂立前，亦未有就物業進行土地查冊及向租客解釋土地查冊的結果，未有遵守《操守守則》第3.4.1段的要求：保障和促進客戶的利益，並對交易各方公平公正。就此，紀律委員會決定譴責該從業員，並在他的牌照上附加條件，要求他在24個月內取得持續專業進修計劃下核心科目的12個學分，其中一個科目必須是監管局舉辦的關於土地查冊的核心科目。

## Disciplinary inquiry case — Failure to disclose the identity of the landlord as the proprietor of an estate agency

The relationship between the estate agent and the client should be one of trust and confidence. Where any potential conflict arises, the estate agent should make a full disclosure to the client of all relevant facts, so as to give the client an opportunity to decide whether to continue with the proposed transaction and/or the appointment of the practitioner. Failing to do so may be subject to disciplinary action by the EAA.

An estate agency practitioner acting as a dual agent arranged for a tenant to enter into a provisional tenancy agreement (“PTA”) with the landlord to rent an industrial property. Throughout the transaction, the practitioner did not tell the tenant that the landlord was the sole proprietor of the estate agency company which employed him. The tenant learnt about the identity of the landlord after entering into the formal tenancy agreement and therefore lodged a complaint with the EAA.

The EAA Disciplinary Committee was of the view that the practitioner did not comply with the “fit and proper person” requirement under section 19(1)(c) of the Estate Agents Ordinance as he failed to disclose the identity of

the landlord to his client. The Disciplinary Committee decided to reprimand the practitioner, suspend his licence for a month and attach conditions to his licence, requiring him to obtain 12 points from the core subjects under the CPD scheme in 24 months.

Besides, the practitioner did not carry out a land search of the property concerned and did not explain to the tenant the result thereof immediately before the PTA was entered into. He therefore failed to comply with paragraph 3.4.1 of the *Code of Ethics*, in that he did not protect and promote the interests of his client and did not act in an impartial and just manner to all parties involved in the transaction. The Disciplinary Committee decided to reprimand the practitioner and attach conditions to his licence, requiring him to obtain 12 points from the core subjects under the CPD scheme in 24 months, and one of the subjects must be the core subject relating to land search offered by the EAA.